

1-1 By: Nelson, et al. S.B. No. 202  
1-2 (In the Senate - Filed March 6, 2015; March 9, 2015, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 May 11, 2015, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 11, 2015,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 202 By: Uresti

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the transfer of certain occupational regulatory  
1-22 programs and the deregulation of certain activities and  
1-23 occupations.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 ARTICLE 1. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS

1-26 DEPARTMENT OF LICENSING AND REGULATION

1-27 PART 1. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2017

1-28 SECTION 1.001. Subchapter D, Chapter 51, Occupations Code,  
1-29 is amended by adding Section 51.2031 to read as follows:

1-30 Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS;  
1-31 PROVISION OF INFORMATION. (a) This section applies only to the  
1-32 regulation of the following professions by the department:

1-33 (1) athletic trainers;

1-34 (2) dietitians;

1-35 (3) hearing instrument fitters and dispensers;

1-36 (4) midwives;

1-37 (5) orthotists and prosthetists; and

1-38 (6) speech-language pathologists and audiologists.

1-39 (a-1) The commission may not adopt a new rule relating to  
1-40 the scope of practice of or a health-related standard of care for a  
1-41 profession to which this section applies unless the rule has been  
1-42 proposed by the advisory board established for that profession.  
1-43 The commission shall adopt rules prescribing the procedure by which  
1-44 an advisory board may propose rules described by this subsection.

1-45 (a-2) For each rule proposed under Subsection (a-1), the  
1-46 commission shall either adopt the rule as proposed or return the  
1-47 rule to the advisory board for revision. The commission retains  
1-48 authority for final adoption of all rules and is responsible for  
1-49 ensuring compliance with all laws regarding the rulemaking process.  
1-50 This subsection and Subsection (a-1) expire September 1, 2019.

1-51 (b) The commission shall adopt rules clearly specifying the  
1-52 manner in which the department and commission will solicit input  
1-53 from, and on request provide information to, an advisory board  
1-54 established for a profession to which this section applies  
1-55 regarding the general investigative, enforcement, or disciplinary  
1-56 procedures of the department or commission.

1-57 SECTION 1.002. Section 203.002, Occupations Code, is  
1-58 amended by adding Subdivision (1) and amending Subdivisions (3),  
1-59 (4), (4-a), (6), and (9) to read as follows:

1-60 (1) "Advisory board" means the Midwives Advisory

2-1 Board.

2-2 (3) "Commission" [~~"Commissioner"~~] means the Texas  
2-3 Commission of Licensing and Regulation [~~commissioner of state~~  
2-4 ~~health services~~].

2-5 (4) "Department" means the Texas Department of  
2-6 Licensing and Regulation [~~State Health Services~~].

2-7 (4-a) "Executive director" [~~commissioner~~] means the  
2-8 executive director of the department [~~commissioner of the Health~~  
2-9 ~~and Human Services Commission~~].

2-10 (6) "Midwife" means a person who practices midwifery  
2-11 and has met the licensing requirements established by this chapter  
2-12 and commission [~~midwifery board~~] rules.

2-13 (9) "Normal" means, as applied to pregnancy, labor,  
2-14 delivery, the postpartum period, and the newborn period, and as  
2-15 defined by commission [~~midwifery board~~] rule, circumstances under  
2-16 which a midwife has determined that a client is at a low risk of  
2-17 developing complications.

2-18 SECTION 1.003. Section 203.005, Occupations Code, is  
2-19 amended to read as follows:

2-20 Sec. 203.005. EFFECT ON LOCAL ORDINANCES. This chapter  
2-21 does not prohibit a municipality from adopting a local ordinance or  
2-22 rule to regulate the practice of midwifery in the municipality if  
2-23 the ordinance or rule is compatible with and at least as strict as  
2-24 this chapter and commission [~~midwifery board~~] rules.

2-25 SECTION 1.004. The heading to Subchapter B, Chapter 203,  
2-26 Occupations Code, is amended to read as follows:

2-27 SUBCHAPTER B. MIDWIVES ADVISORY [~~MIDWIFERY~~] BOARD

2-28 SECTION 1.005. Section 203.052, Occupations Code, is  
2-29 amended to read as follows:

2-30 Sec. 203.052. ADVISORY [~~APPOINTMENT OF MIDWIFERY~~] BOARD  
2-31 MEMBERSHIP. (a) The advisory [~~midwifery~~] board consists of nine  
2-32 members appointed by the presiding officer of the commission with  
2-33 the approval of the commission as follows:

2-34 (1) five licensed midwife members each of whom has at  
2-35 least three years' experience in the practice of midwifery;

2-36 (2) one physician member who is certified by a  
2-37 national professional organization of physicians that certifies  
2-38 obstetricians and gynecologists;

2-39 (3) one physician member who is certified by a  
2-40 national professional organization of physicians that certifies  
2-41 family practitioners or pediatricians; and

2-42 (4) two members who represent the public and who are  
2-43 not practicing or trained in a health care profession, one of whom  
2-44 is a parent with at least one child born with the assistance of a  
2-45 midwife.

2-46 (b) Appointments to the advisory [~~midwifery~~] board shall be  
2-47 made without regard to the race, color, disability, sex, religion,  
2-48 age, or national origin of the appointee.

2-49 SECTION 1.006. Subchapter B, Chapter 203, Occupations Code,  
2-50 is amended by adding Section 203.0521 to read as follows:

2-51 Sec. 203.0521. DUTIES OF ADVISORY BOARD. The advisory  
2-52 board shall provide advice and recommendations to the department on  
2-53 technical matters relevant to the administration of this chapter.

2-54 SECTION 1.007. Section 203.055, Occupations Code, is  
2-55 amended to read as follows:

2-56 Sec. 203.055. TERMS; VACANCIES. (a) Members of the  
2-57 advisory [~~midwifery~~] board serve for staggered terms of six years.  
2-58 The terms of three members expire on January 31 of each odd-numbered  
2-59 year.

2-60 (b) If a vacancy occurs during a member's term, the  
2-61 presiding officer of the commission, with the commission's  
2-62 approval, shall appoint a replacement who meets the qualifications  
2-63 for the vacant position to serve for the remainder of the term.

2-64 SECTION 1.008. Section 203.056, Occupations Code, is  
2-65 amended to read as follows:

2-66 Sec. 203.056. PRESIDING OFFICER [~~OFFICERS~~]. The presiding  
2-67 officer of the commission [~~commissioner~~] shall designate a public  
2-68 member of the advisory [~~midwifery~~] board to serve as the presiding  
2-69 officer of the advisory [~~midwifery~~] board to serve for a term of one

3-1 ~~year [in that capacity at the pleasure of the commissioner]. The~~  
3-2 ~~presiding officer of the advisory board may vote on any matter~~  
3-3 ~~before the advisory board [midwifery board shall elect one of the~~  
3-4 ~~other members of the midwifery board as vice presiding officer].~~

3-5 SECTION 1.009. Section 203.059, Occupations Code, is  
3-6 amended to read as follows:

3-7 Sec. 203.059. MEETINGS. ~~[(a)]~~ The advisory ~~[midwifery]~~  
3-8 ~~board shall meet at [least semiannually.~~

3-9 ~~[(b) The midwifery board shall meet at other times at]~~ the  
3-10 ~~call of the presiding officer of the commission or the executive~~  
3-11 ~~director [midwifery board or the commissioner].~~

3-12 SECTION 1.010. The heading to Subchapter D, Chapter 203,  
3-13 Occupations Code, is amended to read as follows:

3-14 SUBCHAPTER D. POWERS AND DUTIES ~~[OF MIDWIFERY BOARD, EXECUTIVE~~  
3-15 ~~COMMISSIONER, AND DEPARTMENT]~~

3-16 SECTION 1.011. The heading to Section 203.151, Occupations  
3-17 Code, is amended to read as follows:

3-18 Sec. 203.151. GENERAL POWERS AND DUTIES ~~[RULEMAKING~~  
3-19 ~~AUTHORITY OF MIDWIFERY BOARD].~~

3-20 SECTION 1.012. Section 203.151, Occupations Code, is  
3-21 amended by amending Subsection (a) and adding Subsections (a-1) and  
3-22 (a-2) to read as follows:

3-23 (a) The executive director shall administer and enforce  
3-24 this chapter.

3-25 (a-1) The commission ~~[Subject to the approval of the~~  
3-26 ~~executive commissioner, the midwifery board] shall:~~

3-27 (1) ~~[adopt substantive and procedural rules necessary~~  
3-28 ~~for the licensing of midwives,~~

3-29 ~~[(2)]~~ adopt rules prescribing the standards for the  
3-30 practice of midwifery in this state, including standards for:

3-31 (A) the delineation of findings that preclude a  
3-32 woman or newborn from being classified as having a normal  
3-33 pregnancy, labor, delivery, postpartum period, or newborn period;  
3-34 and

3-35 (B) administration of oxygen by a midwife to a  
3-36 mother or newborn;

3-37 (2) ~~[(3)]~~ adopt rules prescribing:

3-38 (A) the type of courses and number of hours  
3-39 required to meet the basic midwifery education course and  
3-40 continuing midwifery education course requirements; and

3-41 (B) minimum standards for the approval and  
3-42 revocation of approval of:

3-43 (i) basic midwifery education courses and  
3-44 continuing midwifery education courses; and

3-45 (ii) instructors or facilities used in  
3-46 basic midwifery education courses and continuing midwifery  
3-47 education courses; and

3-48 (3) ~~[(4)]~~ ~~adopt rules prescribing a procedure for~~  
3-49 ~~reporting and processing complaints relating to the practice of~~  
3-50 ~~midwifery in this state,~~

3-51 ~~[(5)]~~ ~~adopt and implement substantive and procedural~~  
3-52 ~~rules as necessary to discipline midwives determined to be in~~  
3-53 ~~violation of this chapter or otherwise a threat to the public health~~  
3-54 ~~and safety,~~

3-55 ~~[(6)]~~ adopt rules as necessary to establish  
3-56 eligibility for reciprocity for initial licensing under this  
3-57 chapter ~~and~~

3-58 ~~[(7)]~~ ~~adopt other rules necessary to implement a duty~~  
3-59 ~~imposed on the executive commissioner or the department under this~~  
3-60 ~~chapter].~~

3-61 (a-2) The department shall:

3-62 (1) implement rules governing:

3-63 (A) basic midwifery education courses and  
3-64 continuing midwifery education courses; and

3-65 (B) approval of instructors or facilities used in  
3-66 offering basic midwifery education courses and continuing  
3-67 midwifery education courses;

3-68 (2) prepare and distribute basic midwifery  
3-69 information and instructor manuals;

4-1 (3) enter into agreements necessary to carry out this  
4-2 chapter; and  
4-3 (4) establish a program for licensure as a midwife as  
4-4 prescribed by commission rules.

4-5 SECTION 1.013. Section 203.152(b), Occupations Code, is  
4-6 amended to read as follows:

4-7 (b) The commission [~~midwifery board~~] may not set a fee for  
4-8 an amount less than the amount of that fee on September 1, 1993.

4-9 SECTION 1.014. Sections 203.153(a) and (c), Occupations  
4-10 Code, are amended to read as follows:

4-11 (a) The [~~Subject to the approval of the~~] department[, ~~the~~  
4-12 ~~midwifery board~~] shall issue basic information manuals for the  
4-13 practice of midwifery[. ~~The midwifery board shall approve the~~  
4-14 ~~basic information manuals~~] and instructor manuals that may be used  
4-15 in basic midwifery education courses.

4-16 (c) A basic information manual must include information  
4-17 about:

4-18 (1) the knowledge necessary to practice as a midwife;

4-19 (2) the basic education and continuing education  
4-20 requirements for a midwife;

4-21 (3) the legal requirements and procedures relating to  
4-22 midwifery;

4-23 (4) the standards of practice as a midwife; and

4-24 (5) other information or procedures required by the  
4-25 commission [~~midwifery board~~] or the department.

4-26 SECTION 1.015. Section 203.154, Occupations Code, is  
4-27 amended to read as follows:

4-28 Sec. 203.154. REPORTS ON MIDWIFERY. (a) [~~(c)~~] The  
4-29 department [~~midwifery board~~] shall prepare and publish reports on  
4-30 the practice of midwifery in this state.

4-31 (b) The Department of State Health Services shall publish  
4-32 a [~~, including~~] statistical report [~~reporting~~] of infant fetal  
4-33 morbidity and mortality.

4-34 SECTION 1.016. The heading to Section 203.155, Occupations  
4-35 Code, is amended to read as follows:

4-36 Sec. 203.155. COMPLAINTS [~~COMPLAINT PROCEDURE AND~~  
4-37 ~~INVESTIGATION~~].

4-38 SECTION 1.017. Sections 203.155(b) and (d), Occupations  
4-39 Code, are amended to read as follows:

4-40 (b) For purposes of Section 51.252, the commission must  
4-41 adopt [~~The~~] rules to [~~adopted under Subsection (a) must:~~

4-42 [~~(1) distinguish among categories of complaints;~~

4-43 [~~(2) ensure that a person who files a complaint has an~~  
4-44 ~~opportunity to explain the allegations made in the complaint; and~~

4-45 [~~(3)~~] provide for the release of any relevant  
4-46 midwifery or medical record to the department [~~midwifery board~~],  
4-47 without the necessity of consent by the midwife's client, as  
4-48 necessary to conduct an investigation of a complaint.

4-49 (d) The department [~~midwifery board~~] shall provide  
4-50 reasonable assistance to a person who wishes to file a complaint  
4-51 with the department regarding a person or activity regulated by  
4-52 this chapter [~~midwifery board~~].

4-53 SECTION 1.018. Section 203.252(a), Occupations Code, is  
4-54 amended to read as follows:

4-55 (a) A person qualifies to become a licensed midwife under  
4-56 this chapter if the person provides the department [~~program~~  
4-57 ~~coordinator~~] with documentary evidence that the person has:

4-58 (1) satisfied each requirement for basic midwifery  
4-59 education; and

4-60 (2) passed the comprehensive midwifery examination  
4-61 and jurisprudence examination required by this chapter.

4-62 SECTION 1.019. Section 203.253, Occupations Code, is  
4-63 amended to read as follows:

4-64 Sec. 203.253. LICENSE APPLICATION. A person who practices  
4-65 midwifery must apply to the department to be licensed as a midwife  
4-66 in the manner and on a form prescribed by the executive director.  
4-67 The application must:

4-68 (1) be accompanied by a nonrefundable application fee;

4-69 and

5-1 (2) include information required by commission  
5-2 [~~midwifery board~~] rules.

5-3 SECTION 1.020. Section 203.254, Occupations Code, is  
5-4 amended to read as follows:

5-5 Sec. 203.254. BASIC MIDWIFERY EDUCATION. The commission  
5-6 [~~Subject to the approval of the executive commissioner, the~~  
5-7 ~~midwifery board~~] shall establish requirements for basic midwifery  
5-8 education.

5-9 SECTION 1.021. Section 203.255(a), Occupations Code, is  
5-10 amended to read as follows:

5-11 (a) The department [~~midwifery board, with the approval of~~  
5-12 ~~the executive commissioner,~~] shall:

5-13 (1) adopt a comprehensive midwifery examination for  
5-14 persons regulated under this chapter that must be passed before the  
5-15 initial license may be issued; and

5-16 (2) establish eligibility requirements for persons  
5-17 taking a comprehensive midwifery examination.

5-18 SECTION 1.022. Section 203.2555, Occupations Code, is  
5-19 amended to read as follows:

5-20 Sec. 203.2555. JURISPRUDENCE EXAMINATION. (a) The  
5-21 department [~~midwifery board~~] shall develop and administer at least  
5-22 twice each calendar year a jurisprudence examination to determine  
5-23 an applicant's knowledge of this chapter, commission [~~midwifery~~  
5-24 ~~board~~] rules under this chapter, and any other applicable laws of  
5-25 this state affecting the applicant's midwifery practice.

5-26 (b) The commission [~~Subject to the approval of the executive~~  
5-27 ~~commissioner, the midwifery board~~] shall adopt rules to implement  
5-28 this section, including rules related to the development and  
5-29 administration of the examination, examination fees, guidelines  
5-30 for reexamination, grading the examination, and providing notice of  
5-31 examination results.

5-32 SECTION 1.023. Section 203.256, Occupations Code, is  
5-33 amended to read as follows:

5-34 Sec. 203.256. TRAINING IN NEWBORN SCREENING AND BASIC LIFE  
5-35 SUPPORT CARDIOPULMONARY RESUSCITATION. A person who practices  
5-36 midwifery in this state must provide the department [~~program~~  
5-37 ~~coordinator~~] with satisfactory evidence that the person:

5-38 (1) is trained to perform the newborn screening tests  
5-39 under Section 203.354 or has made arrangements for the performance  
5-40 of those tests; and

5-41 (2) holds:  
5-42 (A) a current certificate issued by the American  
5-43 Heart Association in basic life support cardiopulmonary  
5-44 resuscitation; or

5-45 (B) another form of certification acceptable to  
5-46 the department that demonstrates proficiency in basic life support  
5-47 cardiopulmonary resuscitation for adults and children.

5-48 SECTION 1.024. Section 203.304, Occupations Code, is  
5-49 amended to read as follows:

5-50 Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) The  
5-51 commission by rule [~~Subject to the approval of the executive~~  
5-52 ~~commissioner, the midwifery board~~] shall establish requirements  
5-53 for continuing midwifery education, including a minimum number of  
5-54 hours of continuing education required to renew a license under  
5-55 this chapter.

5-56 (b) On renewal of the license, a midwife must provide the  
5-57 department [~~program coordinator~~] with evidence, acceptable under  
5-58 commission [~~midwifery board~~] rules, of completion of continuing  
5-59 midwifery education as prescribed by the commission by rule  
5-60 [~~midwifery board~~].

5-61 (c) The commission [~~midwifery board~~] by rule shall develop a  
5-62 process to evaluate and approve continuing education courses.

5-63 SECTION 1.025. Section 203.305, Occupations Code, is  
5-64 amended to read as follows:

5-65 Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY  
5-66 EDUCATION COURSES. The department [~~midwifery board~~] may assess the  
5-67 continuing education needs of licensed midwives and may require  
5-68 licensed midwives to attend continuing midwifery education courses  
5-69 specified by the department [~~midwifery board~~].

6-1 SECTION 1.026. Section 203.306, Occupations Code, is  
6-2 amended to read as follows:

6-3 Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. The department  
6-4 [~~midwifery board~~] may refuse to renew the license of a person who  
6-5 fails to pay an administrative penalty [~~imposed under Subchapter~~  
6-6 ~~J,~~] unless enforcement of the penalty is stayed or a court has  
6-7 ordered that the administrative penalty is not owed.

6-8 SECTION 1.027. Section 203.351(b), Occupations Code, is  
6-9 amended to read as follows:

6-10 (b) The department [~~midwifery board~~] shall prescribe the  
6-11 form of the informed choice and disclosure statement required to be  
6-12 used by a midwife under this chapter. The form must include:

- 6-13 (1) statistics of the midwife's experience as a  
6-14 midwife;  
6-15 (2) the date the midwife's license expires;  
6-16 (3) the date the midwife's cardiopulmonary  
6-17 resuscitation certification expires;  
6-18 (4) the midwife's compliance with continuing education  
6-19 requirements;  
6-20 (5) a description of medical backup arrangements; and  
6-21 (6) the legal responsibilities of a midwife, including  
6-22 statements concerning newborn blood screening, ophthalmia  
6-23 neonatorum prevention, and prohibited acts under Sections  
6-24 203.401-203.403.

6-25 SECTION 1.028. Section 203.352, Occupations Code, is  
6-26 amended to read as follows:

6-27 Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED.  
6-28 A midwife shall encourage a client to seek:

- 6-29 (1) prenatal care; and  
6-30 (2) medical care through consultation or referral, as  
6-31 specified by commission [~~midwifery board~~] rules, if the midwife  
6-32 determines that the pregnancy, labor, delivery, postpartum period,  
6-33 or newborn period of a woman or newborn may not be classified as  
6-34 normal for purposes of this chapter.

6-35 SECTION 1.029. Section 203.354(b), Occupations Code, is  
6-36 amended to read as follows:

6-37 (b) A midwife may collect blood specimens for the newborn  
6-38 screening tests if the midwife has been approved by the department  
6-39 to collect the specimen. ~~The commission [Subject to the approval of~~  
6-40 ~~the executive commissioner, the midwifery board]~~ shall adopt rules  
6-41 establishing the standards for approval. The standards must  
6-42 recognize completion of a course of instruction that includes the  
6-43 blood specimen collection procedure or verification by  
6-44 appropriately trained health care providers that the midwife has  
6-45 been instructed in the blood collection procedures.

6-46 SECTION 1.030. Section 203.355(b), Occupations Code, is  
6-47 amended to read as follows:

6-48 (b) The Department of State Health Services [~~department~~]  
6-49 and a local health department, a public health district, or a local  
6-50 health unit shall provide clinical and laboratory support services  
6-51 to a pregnant woman or a newborn who is a client of a midwife if the  
6-52 midwife is required to provide the services under this chapter.

6-53 SECTION 1.031. Section 203.356(a), Occupations Code, is  
6-54 amended to read as follows:

6-55 (a) A physician, a registered nurse, or other person who, on  
6-56 the order of a physician, instructs a midwife in the approved  
6-57 techniques for collecting blood specimens to be used for newborn  
6-58 screening tests is immune from liability arising out of the failure  
6-59 or refusal of the midwife to:

- 6-60 (1) collect the specimens in the approved manner; or  
6-61 (2) submit the specimens to the Department of State  
6-62 Health Services [~~department~~] in a timely manner.

6-63 SECTION 1.032. Sections 203.357(a) and (b), Occupations  
6-64 Code, are amended to read as follows:

6-65 (a) The department [~~midwifery board~~] may require  
6-66 information in addition to that required by Section 203.253 if it  
6-67 determines the additional information is necessary and appropriate  
6-68 to ascertain the nature and extent of midwifery in this state. The  
6-69 department [~~midwifery board~~] may not require information regarding

7-1 any act that is prohibited under this chapter.

7-2 (b) ~~The [With the approval of the midwifery board, the]~~  
7-3 department shall prescribe forms for the additional information and  
7-4 shall distribute those forms directly to each midwife. Each  
7-5 midwife must complete and return the forms to the department as  
7-6 requested.

7-7 SECTION 1.033. Section 203.401, Occupations Code, is  
7-8 amended to read as follows:

7-9 Sec. 203.401. PROHIBITED PRACTICES. A midwife may not:

7-10 (1) provide midwifery care in violation of commission  
7-11 ~~[midwifery board]~~ rule, except in an emergency that poses an  
7-12 immediate threat to the life of a woman or newborn;

7-13 (2) administer a prescription drug to a client other  
7-14 than:

7-15 (A) a drug administered under the supervision of  
7-16 a licensed physician in accordance with state law;

7-17 (B) prophylaxis approved by the Department of  
7-18 State Health Services ~~[department]~~ to prevent ophthalmia  
7-19 neonatorum; or

7-20 (C) oxygen administered in accordance with  
7-21 commission ~~[midwifery board]~~ rule;

7-22 (3) use forceps or a surgical instrument for a  
7-23 procedure other than cutting the umbilical cord or providing  
7-24 emergency first aid during delivery;

7-25 (4) remove placenta by invasive techniques;

7-26 (5) use a mechanical device or medicine to advance or  
7-27 retard labor or delivery; or

7-28 (6) make on a birth certificate a false statement or  
7-29 false record in violation of Section 195.003, Health and Safety  
7-30 Code.

7-31 SECTION 1.034. Section 203.404, Occupations Code, is  
7-32 amended to read as follows:

7-33 Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) The  
7-34 commission or executive director ~~[midwifery board]~~ may discipline a  
7-35 licensed midwife, refuse to renew a midwife's license, or refuse to  
7-36 issue a license to an applicant if the person:

7-37 (1) violates this chapter or a rule adopted under this  
7-38 chapter;

7-39 (2) submits false or misleading information to the  
7-40 ~~[midwifery board or the]~~ department;

7-41 (3) is convicted of a misdemeanor involving moral  
7-42 turpitude or a felony;

7-43 (4) uses alcohol or drugs intemperately;

7-44 (5) engages in unprofessional or dishonorable conduct  
7-45 that may reasonably be determined to deceive or defraud the public;

7-46 (6) is unable to practice midwifery with reasonable  
7-47 skill and safety because of illness, disability, or psychological  
7-48 impairment;

7-49 (7) is determined by a court judgment to be mentally  
7-50 impaired;

7-51 (8) submits a birth or death certificate known by the  
7-52 person to be false or fraudulent or engages in another act that  
7-53 violates Title 3, Health and Safety Code, or a rule adopted under  
7-54 that title;

7-55 (9) violates Chapter 244, Health and Safety Code, or a  
7-56 rule adopted under that chapter; or

7-57 (10) fails to practice midwifery in a manner  
7-58 consistent with the public health and safety.

7-59 (b) The commission or executive director ~~[midwifery board]~~  
7-60 may discipline a licensed midwife and may refuse to issue a license  
7-61 to an applicant for a disciplinary action taken by another  
7-62 jurisdiction that affects the person's authority to practice  
7-63 midwifery, including a suspension, a revocation, or another action.

7-64 SECTION 1.035. Section 203.406, Occupations Code, is  
7-65 amended to read as follows:

7-66 Sec. 203.406. REFUND. (a) Subject to Subsection (b), the  
7-67 commission or executive director ~~[midwifery board]~~ may order a  
7-68 licensed midwife to pay a refund to a consumer as provided in an  
7-69 agreed settlement, default order, or commission order ~~[agreement]~~

8-1 ~~resulting from an informal settlement conference]~~ instead of or in  
 8-2 addition to imposing an administrative penalty against the license  
 8-3 holder [under this chapter].

8-4 (b) The amount of a refund ordered ~~[as provided in an~~  
 8-5 ~~agreement resulting from an informal settlement conference]~~ may not  
 8-6 exceed the amount the consumer paid to the licensed midwife for a  
 8-7 service regulated by this chapter. The commission or executive  
 8-8 director [midwifery board] may not require payment of other damages  
 8-9 or estimate harm in a refund order.

8-10 SECTION 1.036. Section 203.501(a), Occupations Code, is  
 8-11 amended to read as follows:

8-12 (a) A person is liable for a civil penalty if the person is  
 8-13 required to be licensed under this chapter and the person knowingly  
 8-14 or intentionally practices midwifery:

8-15 (1) without a license or while the license is  
 8-16 suspended or revoked; or

8-17 (2) in violation of a commission [midwifery board]  
 8-18 order.

8-19 SECTION 1.037. Section 203.502(b), Occupations Code, as  
 8-20 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 8-21 2015, is amended to read as follows:

8-22 (b) If the executive director [department] or a health  
 8-23 authority determines that a person has violated this chapter, the  
 8-24 executive director may institute an action described by Section  
 8-25 51.352 [and that the violation creates an immediate threat to the  
 8-26 health and safety of the public, the department, or the health  
 8-27 authority with the concurrence of the department, may request the  
 8-28 attorney general or a district, county, or city attorney to bring an  
 8-29 action in a district court for a restraining order to restrain the  
 8-30 violation].

8-31 SECTION 1.038. Section 203.503(a), Occupations Code, is  
 8-32 amended to read as follows:

8-33 (a) Venue for a civil action arising out of the imposition  
 8-34 of an administrative penalty [brought under Section 203.451 or  
 8-35 203.452] is in the county in which the defendant resides or in the  
 8-36 county in which the violation occurred.

8-37 SECTION 1.039. Section 203.505(b), Occupations Code, is  
 8-38 amended to read as follows:

8-39 (b) A violation of a cease and desist [an] order issued by  
 8-40 the executive director [under this section] constitutes grounds for  
 8-41 imposing an administrative penalty ~~[under Subchapter J].~~

8-42 SECTION 1.040. Section 401.001, Occupations Code, is  
 8-43 amended by amending Subdivisions (1), (3), (4), and (4-a) and  
 8-44 adding Subdivisions (1-a) and (4-b) to read as follows:

8-45 (1) "Advisory board" means the Speech-Language  
 8-46 Pathologists and Audiologists Advisory Board.

8-47 (1-a) "Audiologist" means a person who meets the  
 8-48 qualifications of this chapter to practice audiology.

8-49 (3) "Commission" ["Board"] means the Texas Commission  
 8-50 of Licensing and Regulation [State Board of Examiners for  
 8-51 Speech-Language Pathology and Audiology].

8-52 (4) "Department" means the Texas Department of  
 8-53 Licensing and Regulation [State Health Services].

8-54 (4-a) "Executive director" means the executive  
 8-55 director of the department.

8-56 (4-b) "Hearing instrument" has the meaning assigned by  
 8-57 Section 402.001.

8-58 SECTION 1.041. Section 401.052, Occupations Code, is  
 8-59 amended to read as follows:

8-60 Sec. 401.052. NURSES. This chapter does not prevent or  
 8-61 restrict a communication, speech, language, or hearing screening,  
 8-62 as defined by commission [board] rule, from being conducted by a  
 8-63 registered nurse:

8-64 (1) licensed in this state; and

8-65 (2) practicing in accordance with the standards of  
 8-66 professional conduct and ethics established by rules adopted by the  
 8-67 Texas Board of Nursing.

8-68 SECTION 1.042. Section 401.053, Occupations Code, is  
 8-69 amended to read as follows:

9-1           Sec. 401.053. PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH  
 9-2 SERVICES. (a) This chapter does not apply to a person who shows  
 9-3 evidence of having received training by the Department of State  
 9-4 Health Services [~~department~~] in a communication, speech, language,  
 9-5 or hearing screening training program approved by that [~~the~~]  
 9-6 department if the person's activity is limited to screening as  
 9-7 defined by commission [~~board~~] rule.

9-8           (b) A person who has received training by the Department of  
 9-9 State Health Services [~~department~~] in a program under Subsection  
 9-10 (a) may not:

- 9-11           (1) practice speech-language pathology or audiology;
- 9-12           or
- 9-13           (2) represent that the person is a speech-language
- 9-14 pathologist or audiologist.

9-15           SECTION 1.043. Sections 401.054(b), (c), and (d),  
 9-16 Occupations Code, are amended to read as follows:

9-17           (b) The Texas Education Agency certificate in  
 9-18 speech-language pathology must require an applicant to:

9-19           (1) hold a master's degree in communicative disorders  
 9-20 or the equivalent from a university program accredited by the  
 9-21 American Speech-Language-Hearing Association; and

9-22           (2) pass a national examination in speech-language  
 9-23 pathology or audiology approved by the department [~~board~~].

9-24           (c) A person affected by this section who performs work as a  
 9-25 speech-language pathologist or audiologist in addition to  
 9-26 performing the person's duties within an agency, institution, or  
 9-27 organization under the jurisdiction of the Texas Education Agency  
 9-28 is required to hold a license issued by the department [~~board~~]  
 9-29 unless that work is limited to speech and hearing screening  
 9-30 procedures performed without compensation.

9-31           (d) For the purposes of Subsection (b)(1), an applicant's  
 9-32 educational credentials are equivalent to a master's degree in  
 9-33 communicative disorders if the credentials:

9-34           (1) consist of graduate-level course work and  
 9-35 practicum from a program accredited by the American  
 9-36 Speech-Language-Hearing Association; and

9-37           (2) meet requirements that are the same as those  
 9-38 established by the department [~~board~~] for a license in  
 9-39 speech-language pathology or audiology.

9-40           SECTION 1.044. The heading to Subchapter C, Chapter 401,  
 9-41 Occupations Code, is amended to read as follows:

9-42           SUBCHAPTER C. [~~STATE BOARD OF EXAMINERS FOR~~] SPEECH-LANGUAGE  
 9-43 PATHOLOGISTS [~~PATHOLOGY~~] AND AUDIOLOGISTS ADVISORY BOARD  
 9-44 [~~AUDIOLOGY~~]

9-45           SECTION 1.045. Section 401.102, Occupations Code, is  
 9-46 amended to read as follows:

9-47           Sec. 401.102. ADVISORY BOARD MEMBERSHIP. (a) The advisory  
 9-48 board consists of nine members appointed by the presiding officer  
 9-49 of the commission with the approval of the commission [~~governor~~] as  
 9-50 follows:

- 9-51           (1) three audiologist members;
- 9-52           (2) three speech-language pathologist members; and
- 9-53           (3) three members who represent the public.

9-54           (b) Advisory board [~~Board~~] members must:

9-55           (1) have been a resident of this state for the two  
 9-56 years preceding the date of appointment;

9-57           (2) be from the various geographic regions of the  
 9-58 state; and

9-59           (3) be from varying employment settings.

9-60           (c) The advisory board members appointed under Subsections  
 9-61 (a)(1) and (2) must:

9-62           (1) have been engaged in teaching, research, or  
 9-63 providing services in speech-language pathology or audiology for at  
 9-64 least five years; and

9-65           (2) be licensed under this chapter.

9-66           (d) One of the public advisory board members must be a  
 9-67 physician licensed in this state and certified in otolaryngology or  
 9-68 pediatrics.

9-69           (e) Appointments to the advisory board shall be made without

10-1 regard to the race, creed, sex, religion, or national origin of the  
10-2 appointee.

10-3 SECTION 1.046. Subchapter C, Chapter 401, Occupations Code,  
10-4 is amended by adding Section 401.10205 to read as follows:

10-5 Sec. 401.10205. DUTIES OF ADVISORY BOARD. The advisory  
10-6 board shall provide advice and recommendations to the department on  
10-7 technical matters relevant to the administration of this chapter.

10-8 SECTION 1.047. The heading to Section 401.105, Occupations  
10-9 Code, is amended to read as follows:

10-10 Sec. 401.105. TERMS; VACANCIES.

10-11 SECTION 1.048. Section 401.105(b), Occupations Code, is  
10-12 amended to read as follows:

10-13 (b) If a vacancy occurs during a member's term, the  
10-14 presiding officer of the commission, with the commission's  
10-15 approval, shall appoint a replacement who meets the qualifications  
10-16 for the vacant position to serve for the remainder of the term [A  
10-17 person may not be appointed to serve more than two consecutive  
10-18 terms].

10-19 SECTION 1.049. Section 401.107, Occupations Code, is  
10-20 amended to read as follows:

10-21 Sec. 401.107. PRESIDING OFFICER [BOARD OFFICERS]. (a) The  
10-22 presiding officer of the commission [governor] shall designate a  
10-23 member of the advisory board to serve as the presiding officer of  
10-24 the advisory board for a term of one year [to serve in that capacity  
10-25 at the will of the governor].

10-26 (b) The presiding officer of the advisory board may vote on  
10-27 any matter before the advisory board [must hold a license under this  
10-28 chapter].

10-29 SECTION 1.050. Section 401.108, Occupations Code, is  
10-30 amended to read as follows:

10-31 Sec. 401.108. MEETINGS. [(a)] The advisory board shall  
10-32 meet [hold at least two regular meetings each year.

10-33 [(b) Additional meetings may be held] at the call of the  
10-34 presiding officer of the commission or the executive director [on  
10-35 the written request of any three members of the board].

10-36 SECTION 1.051. The heading to Subchapter E, Chapter 401,  
10-37 Occupations Code, is amended to read as follows:

10-38 SUBCHAPTER E. [BOARD AND DEPARTMENT] POWERS AND DUTIES

10-39 SECTION 1.052. Section 401.201, Occupations Code, is  
10-40 amended by amending Subsection (a) and adding Subsection (a-1) to  
10-41 read as follows:

10-42 (a) The executive director shall administer and enforce  
10-43 this chapter.

10-44 (a-1) The [With the assistance of the] department[, the  
10-45 board] shall:

10-46 (1) [administer, coordinate, and enforce this  
10-47 chapter,

10-48 [(2)] evaluate the qualifications of license  
10-49 applicants;

10-50 (2) [(3)] provide for the examination of license  
10-51 applicants;

10-52 (3) [(4)] in connection with a hearing under this  
10-53 chapter [Section 401.454], issue subpoenas, examine witnesses, and  
10-54 administer oaths under the laws of this state; and

10-55 (4) [(5) conduct hearings and keep records and minutes  
10-56 necessary to the orderly administration of this chapter; and

10-57 [(6)] investigate persons engaging in practices that  
10-58 violate this chapter.

10-59 SECTION 1.053. Section 401.202, Occupations Code, is  
10-60 amended to read as follows:

10-61 Sec. 401.202. STANDARDS OF ETHICAL PRACTICE [RULEMAKING  
10-62 AUTHORITY]. The commission [board] shall adopt rules under  
10-63 [necessary to administer and enforce] this chapter[, including  
10-64 rules] that establish standards of ethical practice.

10-65 SECTION 1.054. Section 401.2021, Occupations Code, is  
10-66 amended to read as follows:

10-67 Sec. 401.2021. [JOINT] RULES FOR HEARING INSTRUMENTS. With  
10-68 the assistance of the advisory [department, the] board and the  
10-69 Hearing Instrument Fitters and Dispensers Advisory Board, the

11-1 commission [~~State Committee of Examiners in the Fitting and~~  
 11-2 ~~Dispensing of Hearing Instruments~~] shall [~~jointly~~] adopt rules to  
 11-3 establish requirements for each sale of a hearing instrument for  
 11-4 purposes of this chapter and Chapter 402. The rules must:

11-5 (1) address:

11-6 (A) the information and other provisions  
 11-7 required in each written contract for the purchase of a hearing  
 11-8 instrument;

11-9 (B) records that must be retained under this  
 11-10 chapter or Chapter 402; and

11-11 (C) guidelines for the 30-day trial period during  
 11-12 which a person may cancel the purchase of a hearing instrument; and

11-13 (2) require that the written contract and 30-day trial  
 11-14 period information provided to a purchaser of a hearing instrument  
 11-15 be in plain language designed to be easily understood by the average  
 11-16 consumer.

11-17 SECTION 1.055. Section 401.2022, Occupations Code, is  
 11-18 amended to read as follows:

11-19 Sec. 401.2022. [~~JOINT~~] RULES FOR FITTING AND DISPENSING OF  
 11-20 HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section,  
 11-21 "telepractice" means the use of telecommunications technology by a  
 11-22 license holder for an assessment, intervention, or consultation  
 11-23 regarding a speech-language pathology or audiology client.

11-24 (b) With the assistance of the advisory [~~department, the~~  
 11-25 ~~board and the Hearing Instrument Fitters and Dispensers Advisory~~  
 11-26 ~~Board, the commission~~ [~~State Committee of Examiners in the Fitting~~  
 11-27 ~~and Dispensing of Hearing Instruments~~] shall [~~jointly~~] adopt rules  
 11-28 to establish requirements for the fitting and dispensing of hearing  
 11-29 instruments by the use of telepractice for purposes of this chapter  
 11-30 and Chapter 402, including rules that establish the qualifications  
 11-31 and duties of license holders who use telepractice.

11-32 SECTION 1.056. The heading to Section 401.203, Occupations  
 11-33 Code, is amended to read as follows:

11-34 Sec. 401.203. ASSISTANCE FILING COMPLAINT [~~BOARD DUTIES~~  
 11-35 ~~REGARDING COMPLAINTS~~].

11-36 SECTION 1.057. Section 401.203(c), Occupations Code, is  
 11-37 amended to read as follows:

11-38 (c) The department [~~board~~] shall provide reasonable  
 11-39 assistance to a person who wishes to file a complaint with the  
 11-40 department regarding a person or activity regulated under this  
 11-41 chapter [~~board~~].

11-42 SECTION 1.058. Section 401.251, Occupations Code, is  
 11-43 amended to read as follows:

11-44 Sec. 401.251. TELEPHONE NUMBER FOR COMPLAINTS. The  
 11-45 department [~~board~~] shall list with its regular telephone number any  
 11-46 toll-free telephone number established under other state law that  
 11-47 may be called to present a complaint about a health professional.

11-48 SECTION 1.059. The heading to Section 401.253, Occupations  
 11-49 Code, is amended to read as follows:

11-50 Sec. 401.253. [~~GENERAL~~] RULES REGARDING USE OF PRIVATE  
 11-51 INVESTIGATOR [~~REGARDING COMPLAINT INVESTIGATION AND DISPOSITION~~].

11-52 SECTION 1.060. Section 401.253(a), Occupations Code, is  
 11-53 amended to read as follows:

11-54 (a) For purposes of Section 51.252, the commission must [~~The~~  
 11-55 ~~board shall~~] adopt rules to [~~concerning the investigation of a~~  
 11-56 ~~complaint filed with the board. The rules must:~~

11-57 [~~(1) distinguish among categories of complaints;~~

11-58 [~~(2) ensure that a complaint is not dismissed without~~  
 11-59 ~~appropriate consideration;~~

11-60 [~~(3) require that the board be advised of a complaint~~  
 11-61 ~~that is dismissed and that a letter be sent to the person who filed~~  
 11-62 ~~the complaint explaining the action taken on the dismissed~~  
 11-63 ~~complaint;~~

11-64 [~~(4) ensure that the person who filed the complaint~~  
 11-65 ~~has an opportunity to explain the allegations made in the~~  
 11-66 ~~complaint; and~~

11-67 [~~(5)~~] prescribe guidelines concerning the categories  
 11-68 of complaints under this chapter that require the use of a private  
 11-69 investigator and the procedures for the department [~~board~~] to

12-1 obtain the services of a private investigator.

12-2 SECTION 1.061. The heading to Section 401.2535, Occupations  
12-3 Code, is amended to read as follows:

12-4 Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND  
12-5 DISCIPLINARY INFORMATION [~~INVESTIGATION; SUBPOENA~~].

12-6 SECTION 1.062. Sections 401.2535(h) and (i), Occupations  
12-7 Code, are amended to read as follows:

12-8 (h) All information and materials subpoenaed or compiled by  
12-9 the department [~~board~~] in connection with a complaint and  
12-10 investigation are confidential and not subject to disclosure under  
12-11 Chapter 552, Government Code, and not subject to disclosure,  
12-12 discovery, subpoena, or other means of legal compulsion for their  
12-13 release to anyone other than the department [~~board~~] or its  
12-14 employees or agents involved in discipline of the holder of a  
12-15 license, except that this information may be disclosed to:

12-16 (1) persons involved with the department [~~board~~] in a  
12-17 disciplinary action against the holder of a license;

12-18 (2) professional speech-language pathologist and  
12-19 audiologist licensing or disciplinary boards in other  
12-20 jurisdictions;

12-21 (3) peer assistance programs approved by the  
12-22 commission [~~board~~] under Chapter 467, Health and Safety Code;

12-23 (4) law enforcement agencies; and

12-24 (5) persons engaged in bona fide research, if all  
12-25 individual-identifying information has been deleted.

12-26 (i) The filing of formal charges by the department [~~board~~]  
12-27 against a holder of a license, the nature of those charges,  
12-28 disciplinary proceedings of the department, commission, or  
12-29 executive director [~~board~~], and final disciplinary actions,  
12-30 including warnings and reprimands, by the department, commission,  
12-31 or executive director [~~board~~] are not confidential and are subject  
12-32 to disclosure in accordance with Chapter 552, Government Code.

12-33 SECTION 1.063. Section 401.302, Occupations Code, is  
12-34 amended to read as follows:

12-35 Sec. 401.302. ISSUANCE OF LICENSE. (a) The department  
12-36 [~~board~~] shall issue a license to an applicant who meets the  
12-37 requirements of this chapter and who pays to the department [~~board~~]  
12-38 the initial nonrefundable license fee.

12-39 (b) The department [~~board~~] may issue to an applicant a  
12-40 license in either speech-language pathology or audiology.

12-41 (c) The department [~~board~~] may issue a license in both  
12-42 speech-language pathology and audiology to an applicant.

12-43 (d) The commission [~~board~~] by rule shall establish  
12-44 qualifications for dual licensing in speech-language pathology and  
12-45 audiology and may develop a full range of licensing options and  
12-46 establish rules for qualifications.

12-47 SECTION 1.064. Section 401.303(a), Occupations Code, is  
12-48 amended to read as follows:

12-49 (a) A person who desires a license under this chapter must  
12-50 apply to the department [~~board~~] on a form and in the manner  
12-51 prescribed by the executive director [~~board prescribes~~].

12-52 SECTION 1.065. Sections 401.304(a) and (c), Occupations  
12-53 Code, are amended to read as follows:

12-54 (a) To be eligible for licensing as a speech-language  
12-55 pathologist or audiologist, an applicant must:

12-56 (1) if the application is for a license in:

12-57 (A) speech-language pathology, possess at least  
12-58 a master's degree with a major in at least one of the areas of  
12-59 communicative sciences or disorders from a program accredited by a  
12-60 national accrediting organization that is approved by the  
12-61 commission or department [~~board~~] and recognized by the United  
12-62 States secretary of education under the Higher Education Act of  
12-63 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved  
12-64 college or university; or

12-65 (B) audiology, possess at least a doctoral degree  
12-66 in audiology or a related hearing science from a program accredited  
12-67 by a national accrediting organization that is approved by the  
12-68 commission or department [~~board~~] and recognized by the United  
12-69 States secretary of education under the Higher Education Act of

13-1 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved  
 13-2 college or university;  
 13-3 (2) submit a transcript from a public or private  
 13-4 institution of higher learning showing successful completion of  
 13-5 course work in amounts set by the commission by rule [~~board~~] in:  
 13-6 (A) normal development and use of speech,  
 13-7 language, and hearing;  
 13-8 (B) evaluation, habilitation, and rehabilitation  
 13-9 of speech, language, and hearing disorders; and  
 13-10 (C) related fields that augment the work of  
 13-11 clinical practitioners of speech-language pathology and audiology;  
 13-12 (3) have successfully completed at least 36 semester  
 13-13 hours in courses that are acceptable toward a graduate degree by the  
 13-14 college or university in which the courses are taken, at least 24 of  
 13-15 which must be in the professional area for which the license is  
 13-16 requested;  
 13-17 (4) have completed the minimum number of hours,  
 13-18 established by the commission by rule [~~board~~], of supervised  
 13-19 clinical experience with persons who present a variety of  
 13-20 communication disorders; and  
 13-21 (5) have completed the full-time supervised  
 13-22 professional experience, as defined by commission [~~board~~] rule, in  
 13-23 which clinical work has been accomplished in the major professional  
 13-24 area for which the license is being sought.  
 13-25 (c) Supervised professional experience under Subsection  
 13-26 (a)(5) must:  
 13-27 (1) be under the supervision of a qualified person  
 13-28 acceptable to the department [~~board~~] under guidelines approved by  
 13-29 the commission [~~board~~]; and  
 13-30 (2) begin after completion of the academic and  
 13-31 clinical experience required by this section.  
 13-32 SECTION 1.066. Section 401.3041, Occupations Code, is  
 13-33 amended to read as follows:  
 13-34 Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION  
 13-35 REQUIREMENT FOR LICENSE ISSUANCE. (a) The department [~~board~~]  
 13-36 shall require that an applicant for a license submit a complete and  
 13-37 legible set of fingerprints, on a form prescribed by the department  
 13-38 [~~board~~], to the department [~~board~~] or to the Department of Public  
 13-39 Safety for the purpose of obtaining criminal history record  
 13-40 information from the Department of Public Safety and the Federal  
 13-41 Bureau of Investigation.  
 13-42 (b) The department [~~board~~] may not issue a license to a  
 13-43 person who does not comply with the requirement of Subsection (a).  
 13-44 (c) The department [~~board~~] shall conduct a criminal history  
 13-45 check of each applicant for a license using information:  
 13-46 (1) provided by the individual under this section; and  
 13-47 (2) made available to the department [~~board~~] by the  
 13-48 Department of Public Safety, the Federal Bureau of Investigation,  
 13-49 and any other criminal justice agency under Chapter 411, Government  
 13-50 Code.  
 13-51 (d) The department [~~Department of State Health Services on~~  
 13-52 ~~behalf of the board~~] may:  
 13-53 (1) enter into an agreement with the Department of  
 13-54 Public Safety to administer a criminal history check required under  
 13-55 this section; and  
 13-56 (2) authorize the Department of Public Safety to  
 13-57 collect from each applicant the costs incurred by the Department of  
 13-58 Public Safety in conducting the criminal history check.  
 13-59 SECTION 1.067. Section 401.305, Occupations Code, is  
 13-60 amended to read as follows:  
 13-61 Sec. 401.305. EXAMINATION. (a) To obtain a license, an  
 13-62 applicant must:  
 13-63 (1) pass an [a validated] examination approved by the  
 13-64 commission by rule [~~board~~]; and  
 13-65 (2) pay fees in a manner prescribed by the commission  
 13-66 by rule [~~board~~].  
 13-67 (b) The department [~~board~~] shall~~+~~  
 13-68 [~~+~~] administer an examination at least twice each  
 13-69 year.

14-1            (b-1) The commission by rule shall~~[+]~~  
 14-2            ~~[(2)]~~ determine standards for acceptable performance  
 14-3 on the examination~~[, and~~  
 14-4            ~~[(3) maintain a record of all examination scores for~~  
 14-5 ~~at least two years after the date of examination].~~

14-6            (c) The commission ~~[board]~~ by rule may:

14-7            (1) establish procedures for the administration of the  
 14-8 examination; and

14-9            (2) require a written or oral examination, or both.

14-10           (d) The commission by rule ~~[board]~~ may require the  
 14-11 examination of ~~[examine]~~ an applicant in any theoretical or applied  
 14-12 field of speech-language pathology or audiology it considers  
 14-13 appropriate. The commission by rule ~~[board]~~ may require the  
 14-14 examination of ~~[examine]~~ an applicant on professional skills and  
 14-15 judgment in the use of speech-language pathology or audiology  
 14-16 techniques or methods.

14-17            SECTION 1.068. Section 401.307(b), Occupations Code, is  
 14-18 amended to read as follows:

14-19            (b) An applicant who fails two examinations may not be  
 14-20 reexamined until the person:

14-21            (1) submits a new application accompanied by a  
 14-22 nonrefundable application fee; and

14-23            (2) presents evidence acceptable to the department  
 14-24 ~~[board]~~ of additional study in the area for which a license is  
 14-25 sought.

14-26            SECTION 1.069. Section 401.308, Occupations Code, is  
 14-27 amended to read as follows:

14-28            Sec. 401.308. PROVISIONAL LICENSE; CERTIFICATE OF CLINICAL  
 14-29 COMPETENCE WAIVER. (a) The department ~~[board]~~ may grant a  
 14-30 provisional license to an applicant who:

14-31            (1) is licensed in good standing as a speech-language  
 14-32 pathologist or an audiologist in another state that has licensing  
 14-33 requirements that are substantially equivalent to the requirements  
 14-34 of this chapter;

14-35            (2) has passed a national or other examination  
 14-36 recognized by the department ~~[board]~~ relating to speech-language  
 14-37 pathology or audiology; and

14-38            (3) is sponsored by a license holder with whom the  
 14-39 provisional license holder may practice under this section.

14-40            (b) An applicant for a provisional license may be excused  
 14-41 from the requirement of Subsection (a)(3) if the department ~~[board]~~  
 14-42 determines that compliance with that requirement is a hardship to  
 14-43 the applicant.

14-44            (c) A provisional license is valid until the date the  
 14-45 department ~~[board]~~ approves or denies the provisional license  
 14-46 holder's application for a license.

14-47            (d) The department ~~[board]~~ shall issue a license under this  
 14-48 chapter to a provisional license holder:

14-49            (1) who passes the examination required by Section  
 14-50 401.305;

14-51            (2) for whom the department ~~[board]~~ verifies  
 14-52 satisfaction of the academic and experience requirements for a  
 14-53 license under this chapter; and

14-54            (3) who satisfies any other license requirements under  
 14-55 this chapter.

14-56            (e) The department ~~[board]~~ shall complete the processing of  
 14-57 a provisional license holder's application for a license not later  
 14-58 than the 180th day after the date the provisional license is issued.

14-59            (f) The department ~~[board]~~ may waive the examination  
 14-60 requirement and issue a license to an applicant who holds the  
 14-61 Certificate of Clinical Competence of the American  
 14-62 Speech-Language-Hearing Association.

14-63            SECTION 1.070. Section 401.310(a), Occupations Code, is  
 14-64 amended to read as follows:

14-65            (a) The department ~~[board]~~ shall issue a temporary  
 14-66 certificate of registration to an applicant who:

14-67            (1) satisfies the requirements of Section 401.304;

14-68            (2) has not previously applied to take the  
 14-69 examination; and

15-1 (3) pays the nonrefundable application fee.  
 15-2 SECTION 1.071. Section 401.311(c), Occupations Code, is  
 15-3 amended to read as follows:

15-4 (c) The commission [~~board~~] by rule shall:

15-5 (1) prescribe the terms governing a person's practice  
 15-6 as an intern under this section; and

15-7 (2) establish general guidelines and renewal  
 15-8 procedures for the holder of an intern license.

15-9 SECTION 1.072. Sections 401.312(a) and (b), Occupations  
 15-10 Code, are amended to read as follows:

15-11 (a) The commission by rule [~~board~~] may establish minimum  
 15-12 qualifications for licensed assistants in speech-language  
 15-13 pathology and in audiology.

15-14 (b) A licensed assistant in speech-language pathology or in  
 15-15 audiology must meet the minimum qualifications established by the  
 15-16 commission [~~board~~].

15-17 SECTION 1.073. Section 401.351, Occupations Code, as  
 15-18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 15-19 2015, is amended to read as follows:

15-20 Sec. 401.351. LICENSE TERM [~~EXPIRATION~~]. [~~(a)~~] A license  
 15-21 issued under this chapter is valid for two years. [~~The board by~~  
 15-22 ~~rule may adopt a system under which licenses expire on various dates~~  
 15-23 ~~during the year.~~

15-24 [~~(b) For the year in which the license expiration date is~~  
 15-25 ~~changed, license fees payable on the original expiration date shall~~  
 15-26 ~~be prorated on a monthly basis so that each license holder pays only~~  
 15-27 ~~the portion of the license fee that is allocable to the number of~~  
 15-28 ~~months during which the license is valid. On renewal of the license~~  
 15-29 ~~on the new expiration date, the total license renewal fee is~~  
 15-30 ~~payable.]~~

15-31 SECTION 1.074. Section 401.352(a), Occupations Code, as  
 15-32 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 15-33 2015, is amended to read as follows:

15-34 (a) Each licensed speech-language pathologist or  
 15-35 audiologist must pay the nonrefundable fee for license renewal.  
 15-36 [~~The board shall allow a 60-day grace period. After expiration of~~  
 15-37 ~~the grace period, the board may renew a license on payment of a~~  
 15-38 ~~penalty set by board rule.]~~

15-39 SECTION 1.075. Section 401.355, Occupations Code, is  
 15-40 amended to read as follows:

15-41 Sec. 401.355. CONTINUING EDUCATION. (a) The commission by  
 15-42 rule [~~board~~] shall establish uniform mandatory continuing  
 15-43 education requirements. A license holder may not renew the  
 15-44 person's license unless the person meets the continuing education  
 15-45 requirements.

15-46 (b) The commission [~~board~~] shall establish the requirements  
 15-47 in a manner that allows a license holder to comply without an  
 15-48 extended absence from the license holder's county of residence.

15-49 SECTION 1.076. Section 401.401(c), Occupations Code, is  
 15-50 amended to read as follows:

15-51 (c) The commission [~~board~~] shall adopt rules necessary to  
 15-52 enforce this section.

15-53 SECTION 1.077. Section 401.403(b), Occupations Code, is  
 15-54 amended to read as follows:

15-55 (b) A person who meets the requirements of this chapter for  
 15-56 licensing as an audiologist or audiologist intern and who fits and  
 15-57 dispenses hearing instruments must:

15-58 (1) register with the department [~~board~~] the person's  
 15-59 intention to fit and dispense hearing instruments;

15-60 (2) comply with the profession's code of ethics;

15-61 (3) comply with the federal Food and Drug  
 15-62 Administration guidelines for fitting and dispensing hearing  
 15-63 instruments;

15-64 (4) when providing services in this state, use a  
 15-65 written contract that contains the department's [~~board's~~] name,  
 15-66 mailing address, and telephone number; and

15-67 (5) follow the guidelines adopted by commission  
 15-68 [~~board~~] rule for a 30-day trial period on every hearing instrument  
 15-69 purchased.

16-1 SECTION 1.078. Section 401.451(a), Occupations Code, is  
16-2 amended to read as follows:

16-3 (a) After a hearing, the commission or executive director  
16-4 [~~board~~] may deny a license to an applicant or may suspend or revoke  
16-5 a person's license or place on probation a license holder if the  
16-6 applicant or license holder:

16-7 (1) violates this chapter or an order issued or rule  
16-8 adopted under this chapter [~~of the board~~];

16-9 (2) obtains a license by means of fraud,  
16-10 misrepresentation, or concealment of a material fact;

16-11 (3) sells, barter, or offers to sell or barter a  
16-12 license or certificate of registration; or

16-13 (4) engages in unprofessional conduct that:

16-14 (A) endangers or is likely to endanger the  
16-15 health, welfare, or safety of the public as defined by commission  
16-16 [~~board~~] rule; or

16-17 (B) violates the code of ethics adopted and  
16-18 published by the commission [~~board~~].

16-19 SECTION 1.079. Section 401.453(a), Occupations Code, is  
16-20 amended to read as follows:

16-21 (a) The commission or department [~~board~~] may deny a license  
16-22 or may suspend or revoke a license if the applicant or license  
16-23 holder has been convicted of a misdemeanor involving moral  
16-24 turpitude or a felony. The commission or department [~~board~~] may  
16-25 take action authorized by this section when:

16-26 (1) the time for appeal of the person's conviction has  
16-27 elapsed;

16-28 (2) the judgment or conviction has been affirmed on  
16-29 appeal; or

16-30 (3) an order granting probation is made suspending the  
16-31 imposition of the person's sentence, without regard to whether a  
16-32 subsequent order:

16-33 (A) allows a withdrawal of a plea of guilty;

16-34 (B) sets aside a verdict of guilty; or

16-35 (C) dismisses an information or indictment.

16-36 SECTION 1.080. Section 401.5021, Occupations Code, is  
16-37 amended to read as follows:

16-38 Sec. 401.5021. [~~BOARD-ORDERED~~] REFUND. The commission or  
16-39 executive director [~~board~~] may order an audiologist to pay a refund  
16-40 to a consumer who returns a hearing instrument during the 30-day  
16-41 trial period required by rules adopted under Section 401.2021.

16-42 SECTION 1.081. Section 401.552(a), Occupations Code, is  
16-43 amended to read as follows:

16-44 (a) The amount of an [~~the~~] administrative penalty imposed  
16-45 for a violation of this chapter or a rule adopted or order issued  
16-46 under this chapter may not be less than \$50 or more than \$5,000 for  
16-47 each violation. Each day a violation continues or occurs is a  
16-48 separate violation for the purpose of imposing a penalty.

16-49 SECTION 1.082. Section 402.001, Occupations Code, is  
16-50 amended by amending Subdivisions (2), (3), and (6), amending  
16-51 Subdivision (3-a), as added by S.B. 219, Acts of the 84th  
16-52 Legislature, Regular Session, 2015, and adding Subdivision (1) to  
16-53 read as follows:

16-54 (1) "Advisory board" means the Hearing Instrument  
16-55 Fitters and Dispensers Advisory Board.

16-56 (2) "Commission" [~~"Committee"~~] means the Texas  
16-57 Commission of Licensing and Regulation [~~State Committee of~~  
16-58 ~~Examiners in the Fitting and Dispensing of Hearing Instruments~~].

16-59 (3) "Department" means the Texas Department of  
16-60 Licensing and Regulation [~~State Health Services~~].

16-61 (3-a) "Executive director [~~commissioner~~]" means the  
16-62 executive director [~~commissioner~~] of the department [~~Health and~~  
16-63 ~~Human Services Commission~~].

16-64 (6) "License" means a license issued by the department  
16-65 [~~committee~~] under this chapter to a person authorized to fit and  
16-66 dispense hearing instruments.

16-67 SECTION 1.083. The heading to Subchapter B, Chapter 402,  
16-68 Occupations Code, is amended to read as follows:

16-

17-1 SUBCHAPTER B. HEARING INSTRUMENT FITTERS AND DISPENSERS ADVISORY  
 17-2 BOARD [~~STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING~~  
 17-3 ~~OF HEARING INSTRUMENTS~~]

17-4 SECTION 1.084. Section 402.051, Occupations Code, as  
 17-5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 17-6 2015, is amended to read as follows:

17-7 Sec. 402.051. ADVISORY BOARD [~~COMMITTEE~~] MEMBERSHIP.  
 17-8 (a) The advisory board [~~State Committee of Examiners in the~~  
 17-9 ~~Fitting and Dispensing of Hearing Instruments is part of the~~  
 17-10 ~~department and~~] consists of nine members appointed by the presiding  
 17-11 officer of the commission [~~governor~~] with the approval [~~advice and~~  
 17-12 ~~consent~~] of the commission [~~senate~~] as follows:

17-13 (1) six members licensed under this chapter who have  
 17-14 been residents of this state actually engaged in fitting and  
 17-15 dispensing hearing instruments for at least five years preceding  
 17-16 appointment, not more than one of whom may be licensed under Chapter  
 17-17 401;

17-18 (2) one member who is actively practicing as a  
 17-19 physician licensed by the Texas Medical Board and who:

17-20 (A) has been a resident of this state for at least  
 17-21 two years preceding appointment;

17-22 (B) is a citizen of the United States; and

17-23 (C) specializes in the practice of  
 17-24 otolaryngology; and

17-25 (3) two members of the public.

17-26 (b) Appointments to the advisory board [~~committee~~] shall be  
 17-27 made without regard to the race, creed, sex, religion, or national  
 17-28 origin of the appointee.

17-29 SECTION 1.085. Subchapter B, Chapter 402, Occupations Code,  
 17-30 is amended by adding Section 402.0511 to read as follows:

17-31 Sec. 402.0511. DUTIES OF ADVISORY BOARD. The advisory  
 17-32 board shall provide advice and recommendations to the department on  
 17-33 technical matters relevant to the administration of this chapter.

17-34 SECTION 1.086. Section 402.055, Occupations Code, is  
 17-35 amended to read as follows:

17-36 Sec. 402.055. TERMS; VACANCIES. (a) Members of the  
 17-37 advisory board [~~committee~~] serve staggered six-year terms. The  
 17-38 terms of three members expire on February 1 of each odd-numbered  
 17-39 year.

17-40 (b) If a vacancy occurs during a member's term, the  
 17-41 presiding officer of the commission, with the commission's  
 17-42 approval, shall appoint a replacement who meets the qualifications  
 17-43 for the vacant position to serve for the remainder of the term [~~A~~  
 17-44 ~~member who has served two full consecutive terms on the committee is~~  
 17-45 ~~not eligible for reappointment to the committee for the 12 months~~  
 17-46 ~~following the expiration of the second full term].~~

17-47 [~~(c) In the event of the death, resignation, or removal of a~~  
 17-48 ~~member, the governor shall fill the vacancy of the unexpired term in~~  
 17-49 ~~the same manner as other appointments.]~~

17-50 SECTION 1.087. Section 402.057, Occupations Code, is  
 17-51 amended to read as follows:

17-52 Sec. 402.057. PRESIDING OFFICER [~~OFFICERS~~]. [~~(a)~~] The  
 17-53 presiding officer of the commission [~~governor~~] shall designate a  
 17-54 member of the advisory board to serve [~~committee~~] as the presiding  
 17-55 officer of the advisory board for a term of [~~committee to serve in~~  
 17-56 ~~that capacity at the will of the governor.~~

17-57 [~~(b) The term of office as an officer of the committee is~~  
 17-58 ~~one year. The presiding officer of the advisory board may vote on~~  
 17-59 ~~any matter before the advisory board.~~

17-60 SECTION 1.088. Section 402.058, Occupations Code, is  
 17-61 amended to read as follows:

17-62 Sec. 402.058. MEETINGS. [~~(a)~~] The advisory board  
 17-63 [~~committee~~] shall meet [~~hold regular meetings at least twice a~~  
 17-64 ~~year.~~

17-65 [~~(b) A special meeting of the committee shall be held~~] at  
 17-66 the call of the presiding officer of the commission or the executive  
 17-67 director [~~a majority of the members~~].

17-68 SECTION 1.089. The heading to Subchapter C, Chapter 402,  
 17-69 Occupations Code, is amended to read as follows:

SUBCHAPTER C. [~~COMMITTEE~~] POWERS AND DUTIES

SECTION 1.090. Section 402.101, Occupations Code, is amended to read as follows:

Sec. 402.101. GENERAL POWERS AND DUTIES. (a) The executive director [~~With the assistance of the department, the committee~~] shall<sup>+</sup>

[~~(1)~~] administer[, ~~coordinate,~~] and enforce this chapter.

(b) The department shall:

(1) <sup>+</sup>

[~~(2)~~] evaluate the qualifications of applicants;

(2) [~~(3)~~] examine applicants; and

(3) [~~(4)~~] in connection with a hearing under this chapter [~~Section 402.502~~], issue subpoenas, examine witnesses, and administer oaths under the laws of this state<sup>+</sup> and

[~~(5) conduct hearings and keep records and minutes necessary to the orderly administration of this chapter~~].

SECTION 1.091. Section 402.1021, Occupations Code, is amended to read as follows:

Sec. 402.1021. [~~JOINT~~] RULES FOR HEARING INSTRUMENTS. With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board [~~department~~], the commission [~~committee and the State Board of Examiners for Speech-Language Pathology and Audiology~~] shall [~~jointly~~] adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 401. The rules must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 401; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 1.092. Section 402.1023, Occupations Code, is amended to read as follows:

Sec. 402.1023. [~~JOINT~~] RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice" means the use of telecommunications technology by a license holder for the fitting and dispensing of hearing instruments.

(b) With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board [~~department~~], the commission [~~committee and the State Board of Examiners for Speech-Language Pathology and Audiology~~] shall [~~jointly~~] adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 401, including rules that establish the qualifications and duties of license holders who use telepractice.

SECTION 1.093. The heading to Section 402.103, Occupations Code, is amended to read as follows:

Sec. 402.103. FALSE, MISLEADING, OR DECEPTIVE [~~RULES RESTRICTING~~] ADVERTISING [~~OR COMPETITIVE BIDDING~~].

SECTION 1.094. Section 402.103(c), Occupations Code, is amended to read as follows:

(c) For purposes of Section 51.204, an [~~An~~] advertisement is false, misleading, or deceptive if the advertisement:

(1) contains a misrepresentation of fact;

(2) contains a false statement as to the license holder's professional achievements, education, skills, or qualifications in the hearing instrument dispensing profession;

(3) makes a partial disclosure of relevant fact, including the advertisement of:

19-1 (A) a discounted price of an item without  
19-2 identifying in the advertisement or at the location of the item:

19-3 (i) the specific product being offered at  
19-4 the discounted price; or

19-5 (ii) the usual price of the item; and  
19-6 (B) the price of a specifically identified

19-7 hearing instrument, if more than one hearing instrument appears in  
19-8 the same advertisement without an accompanying price;

19-9 (4) contains a representation that a product  
19-10 innovation is new, if the product was first offered by the  
19-11 manufacturer to the general public in this state not less than 12  
19-12 months before the date of the advertisement;

19-13 (5) states that the license holder manufactures  
19-14 hearing instruments at the license holder's office location unless  
19-15 the next statement discloses that the instruments are manufactured  
19-16 by a specified manufacturer and remanufactured by the license  
19-17 holder; or

19-18 (6) contains any other representation, statement, or  
19-19 claim that is inherently misleading or deceptive.

19-20 SECTION 1.095. Sections 402.104(a) and (e), Occupations  
19-21 Code, are amended to read as follows:

19-22 (a) The department [~~committee~~] shall develop and maintain  
19-23 an examination that may include written, oral, or practical  
19-24 tests. The department shall administer or arrange for the  
19-25 administration of the examination.

19-26 (e) The commission [~~committee~~] by rule shall establish the  
19-27 qualifications for a proctor. The rules must:

19-28 (1) require a proctor to be licensed in good standing  
19-29 as a hearing instrument fitter and dispenser;

19-30 (2) specify the number of years a proctor must be  
19-31 licensed as a hearing instrument fitter and dispenser; and

19-32 (3) specify the disciplinary actions or other actions  
19-33 that disqualify a person from serving as a proctor.

19-34 SECTION 1.096. Section 402.152, Occupations Code, is  
19-35 amended to read as follows:

19-36 Sec. 402.152. COMPLAINTS. (a) Each license or permit  
19-37 holder under this chapter shall at all times prominently display in  
19-38 the person's place of business a sign containing:

19-39 (1) the name, mailing address, e-mail address, and  
19-40 telephone number of the department [~~committee~~]; and

19-41 (2) a statement informing consumers that a complaint  
19-42 against a license or permit holder may be directed to the department  
19-43 [~~committee~~].

19-44 (b) Each written contract for services in this state of a  
19-45 license holder [~~licensed hearing instrument dispenser~~] must  
19-46 contain the department's [~~committee's~~] name, mailing address,  
19-47 e-mail address, and telephone number.

19-48 SECTION 1.097. The heading to Section 402.154, Occupations  
19-49 Code, is amended to read as follows:

19-50 Sec. 402.154. CONFIDENTIALITY OF COMPLAINT AND  
19-51 DISCIPLINARY INFORMATION [~~INVESTIGATION, SUBPOENA~~].

19-52 SECTION 1.098. Section 402.154, Occupations Code, is  
19-53 amended by amending Subsection (h), as amended by S.B. 219, Acts of  
19-54 the 84th Legislature, Regular Session, 2015, and Subsection (i) to  
19-55 read as follows:

19-56 (h) All information and materials subpoenaed or compiled by  
19-57 the department [~~committee~~] in connection with a complaint and  
19-58 investigation are confidential and not subject to disclosure under  
19-59 Chapter 552, Government Code, and not subject to disclosure,  
19-60 discovery, subpoena, or other means of legal compulsion for their  
19-61 release to anyone other than the department [~~committee~~] or its  
19-62 agents or employees who are involved in discipline of the holder of  
19-63 a license, except that this information may be disclosed to:

19-64 (1) persons involved with the department [~~committee~~]  
19-65 in a disciplinary action against the holder of a license;

19-66 (2) professional licensing or disciplinary boards for  
19-67 the fitting and dispensing of hearing instruments in other  
19-68 jurisdictions;

19-69 (3) peer assistance programs approved by the

20-1 commission [~~executive commissioner~~] under Chapter 467, Health and  
20-2 Safety Code;

20-3 (4) law enforcement agencies; and

20-4 (5) persons engaged in bona fide research, if all  
20-5 individual-identifying information has been deleted.

20-6 (i) The filing of formal charges by the department  
20-7 [~~committee~~] against a holder of a license, the nature of those  
20-8 charges, disciplinary proceedings of the department, commission,  
20-9 or executive director [~~committee~~], and final disciplinary actions,  
20-10 including warnings and reprimands, by the department, commission,  
20-11 or executive director [~~committee~~] are not confidential and are  
20-12 subject to disclosure in accordance with Chapter 552, Government  
20-13 Code.

20-14 SECTION 1.099. Section 402.202(a), Occupations Code, is  
20-15 amended to read as follows:

20-16 (a) To engage in fitting and dispensing hearing instruments  
20-17 in this state a person must pass an examination required by the  
20-18 department [~~committee~~].

20-19 SECTION 1.100. Sections 402.203(a) and (c), Occupations  
20-20 Code, are amended to read as follows:

20-21 (a) An applicant for examination must:

20-22 (1) apply to the department in the manner and  
20-23 [~~committee~~] on a form prescribed [~~provided~~] by the executive  
20-24 director [~~committee~~];

20-25 (2) provide [~~on the form~~]:

20-26 (A) documentation [~~sworn evidence~~] that the  
20-27 applicant is at least 18 years of [~~has attained the~~] age [~~of~~  
20-28 ~~majority~~] and has graduated from an accredited high school or  
20-29 equivalent; and

20-30 (B) other information determined necessary by  
20-31 the department [~~committee~~]; and

20-32 (3) pay any required fees for application and  
20-33 examination.

20-34 (c) The department [~~committee~~] may refuse to examine an  
20-35 applicant who has been convicted of a misdemeanor that involves  
20-36 moral turpitude or a felony.

20-37 SECTION 1.101. Section 402.205(b), Occupations Code, is  
20-38 amended to read as follows:

20-39 (b) An examination shall be conducted in writing and by  
20-40 other means the department [~~committee~~] determines adequate to  
20-41 ascertain the qualifications of applicants.

20-42 SECTION 1.102. Section 402.207, Occupations Code, is  
20-43 amended to read as follows:

20-44 Sec. 402.207. ISSUANCE OF APPRENTICE PERMIT. (a) The  
20-45 department [~~committee~~] shall issue an apprentice permit to fit and  
20-46 dispense hearing instruments to a temporary training permit holder  
20-47 who has:

20-48 (1) passed all parts of the examination with a score of  
20-49 70 percent or greater;

20-50 (2) paid the required fees; and

20-51 (3) met all requirements of this chapter.

20-52 (b) An apprentice permit is valid for one year. The  
20-53 department [~~committee~~] may extend the apprentice permit for an  
20-54 additional period not to exceed one year [~~six months~~].

20-55 (c) An apprentice permit holder shall work under the  
20-56 supervision of a license holder [~~licensed hearing instrument~~  
20-57 ~~dispenser~~] for at least one year. During the apprentice year, the  
20-58 apprentice permit holder shall complete 20 hours of classroom  
20-59 continuing education as required by Section 402.303 for a license  
20-60 holder.

20-61 SECTION 1.103. Section 402.208, Occupations Code, is  
20-62 amended to read as follows:

20-63 Sec. 402.208. ISSUANCE OF LICENSE. The department  
20-64 [~~committee~~] shall issue a [~~hearing instrument dispenser's~~] license  
20-65 to an apprentice permit holder when the department [~~committee~~] has  
20-66 received sufficient evidence that the apprentice permit holder has  
20-67 met all the licensing requirements of this chapter.

20-68 SECTION 1.104. Sections 402.209(a), (c), (e), (f), and (i),  
20-69 Occupations Code, are amended to read as follows:

21-1 (a) A person licensed to fit and dispense hearing  
 21-2 instruments in another state may apply for a license under this  
 21-3 chapter by submitting a completed ~~[an]~~ application on a form  
 21-4 prescribed by the department ~~[committee]~~.

21-5 (c) An applicant for a license under this section shall  
 21-6 provide as part of the application:

21-7 (1) written verification that the applicant is  
 21-8 licensed in good standing as a fitter and dispenser of hearing  
 21-9 instruments in another state and has held the license for at least  
 21-10 three years preceding the date of application;

21-11 (2) written verification that:

21-12 (A) the requirements to obtain a license to fit  
 21-13 and dispense hearing instruments in the state in which the  
 21-14 applicant is licensed include passing an examination approved by  
 21-15 the commission ~~[committee]~~ by rule; or

21-16 (B) the applicant holds a certification from a  
 21-17 professional organization approved by the commission ~~[committee]~~  
 21-18 by rule;

21-19 (3) a written statement from the licensing entity in  
 21-20 the state in which the applicant is licensed that details any  
 21-21 disciplinary action taken by the entity against the applicant; and

21-22 (4) a statement of the applicant's criminal history  
 21-23 acceptable to the department ~~[committee]~~.

21-24 (e) If the department approves an application, on the next  
 21-25 regularly scheduled examination date the applicant may take the  
 21-26 practical section of the examination required under Section 402.202  
 21-27 and a written examination of Texas law administered by the  
 21-28 department. If the applicant passes the examinations required  
 21-29 under this section, the department ~~[committee]~~ shall issue to the  
 21-30 applicant a license under this chapter.

21-31 (f) The department may allow an applicant under this section  
 21-32 who satisfies all application requirements other than the  
 21-33 requirement under Subsection (c)(2) to take all sections of the  
 21-34 examination required under Section 402.202. If the applicant  
 21-35 passes the examination, the department ~~[committee]~~ shall issue to  
 21-36 the applicant a license under this chapter.

21-37 (i) The department ~~[committee]~~ may not issue a license under  
 21-38 this section to an applicant who is a licensed audiologist in  
 21-39 another state. The department ~~[committee]~~ shall inform ~~[refer]~~ the  
 21-40 applicant of ~~[to]~~ the licensing requirements of Chapter 401 [State  
 21-41 Board of Examiners for Speech-Language Pathology and Audiology].

21-42 SECTION 1.105. Section 402.210, Occupations Code, is  
 21-43 amended to read as follows:

21-44 Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION  
 21-45 REQUIREMENT FOR LICENSE ISSUANCE. (a) The department ~~[committee]~~  
 21-46 shall require that an applicant for a license submit a complete and  
 21-47 legible set of fingerprints, on a form prescribed by the department  
 21-48 ~~[committee]~~, to the department ~~[committee]~~ or to the Department of  
 21-49 Public Safety for the purpose of obtaining criminal history record  
 21-50 information from the Department of Public Safety and the Federal  
 21-51 Bureau of Investigation.

21-52 (b) The department ~~[committee]~~ may not issue a license to a  
 21-53 person who does not comply with the requirement of Subsection (a).

21-54 (c) The department ~~[committee]~~ shall conduct a criminal  
 21-55 history check of each applicant for a license using information:

21-56 (1) provided by the individual under this section; and

21-57 (2) made available to the department ~~[committee]~~ by  
 21-58 the Department of Public Safety, the Federal Bureau of  
 21-59 Investigation, and any other criminal justice agency under Chapter  
 21-60 411, Government Code.

21-61 (d) The department ~~[on behalf of the committee]~~ may:

21-62 (1) enter into an agreement with the Department of  
 21-63 Public Safety to administer a criminal history check required under  
 21-64 this section; and

21-65 (2) authorize the Department of Public Safety to  
 21-66 collect from each applicant the costs incurred by the Department of  
 21-67 Public Safety in conducting the criminal history check.

21-68 SECTION 1.106. Section 402.251, Occupations Code, is  
 21-69 amended to read as follows:

22-1           Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.  
 22-2 (a) The department [~~committee~~] shall issue a temporary training  
 22-3 permit to a person who:

22-4           (1) has never taken the examination administered under  
 22-5 this chapter;

22-6           (2) possesses the qualifications required under  
 22-7 Section 402.203(a);

22-8           (3) submits a written application on a form prescribed  
 22-9 [~~provided~~] by the department [~~committee~~] furnishing documentation  
 22-10 [~~sworn evidence~~] that the applicant satisfies the requirements of  
 22-11 Subdivisions (1) and (2); and

22-12           (4) pays any required [~~the temporary training permit~~]  
 22-13 fee.

22-14           (b) The department [~~committee~~] may issue a new temporary  
 22-15 training permit under this section to a person on or after the 365th  
 22-16 day after the person's previous temporary training permit expired.

22-17           SECTION 1.107. Section 402.252, Occupations Code, is  
 22-18 amended to read as follows:

22-19           Sec. 402.252. SUPERVISION STATEMENT [~~AFFIDAVIT~~]. (a) An  
 22-20 application for a temporary training permit must be accompanied by  
 22-21 the statement [~~affidavit~~] of a person licensed to fit and dispense  
 22-22 hearing instruments under this chapter or Chapter 401, other than a  
 22-23 person licensed under Section 401.311 or 401.312.

22-24           (b) The statement must be on a form prescribed by the  
 22-25 department and [~~affidavit must~~] state that:

22-26           (1) the person will supervise the applicant [~~, if~~  
 22-27 ~~granted a temporary training permit, will be supervised by the~~  
 22-28 ~~affiant~~] in all work done by the applicant under the temporary  
 22-29 training permit;

22-30           (2) the person [~~affiant~~] will notify the department  
 22-31 [~~committee~~] not later than the 10th day after the date of the  
 22-32 applicant's termination of supervision by the person [~~affiant~~]; and

22-33           (3) if the person [~~affiant~~] is licensed under Chapter  
 22-34 401, the person [~~affiant~~] will comply with all provisions of this  
 22-35 chapter and rules adopted under this chapter that relate to the  
 22-36 supervision and training of a temporary training permit holder.

22-37           SECTION 1.108. Sections 402.253(b) and (c), Occupations  
 22-38 Code, are amended to read as follows:

22-39           (b) A temporary training permit automatically expires on  
 22-40 the first anniversary of the date of issuance unless the department  
 22-41 [~~committee~~] extends the permit for an additional period not to  
 22-42 exceed one year [~~six months~~].

22-43           (c) The department [~~committee~~] may not extend a temporary  
 22-44 training permit more than once.

22-45           SECTION 1.109. Section 402.254(a), Occupations Code, is  
 22-46 amended to read as follows:

22-47           (a) The commission by rule [~~committee~~] shall establish  
 22-48 formal and practical education guidelines for the training of  
 22-49 temporary training permit holders.

22-50           SECTION 1.110. Section 402.255(d), Occupations Code, is  
 22-51 amended to read as follows:

22-52           (d) The supervisor shall maintain a log of the contact hours  
 22-53 by practicum category on a form prescribed [~~provided~~] by the  
 22-54 department [~~committee~~]. After the temporary training permit holder  
 22-55 has completed 150 contact hours, the supervisor and the permit  
 22-56 holder shall sign the form, and the form shall be notarized and  
 22-57 mailed to the department [~~committee~~].

22-58           SECTION 1.111. Section 402.256, Occupations Code, is  
 22-59 amended to read as follows:

22-60           Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT  
 22-61 HOLDER. (a) A temporary training permit holder may provide  
 22-62 routine fitting and dispensing of hearing instruments that have  
 22-63 [~~has~~] been ordered by the supervisor. The supervisor is the sole  
 22-64 judge of whether the permit holder has the qualifications necessary  
 22-65 to perform routine fitting and dispensing. A supervisor is  
 22-66 accountable to the department [~~committee~~] for the actions and  
 22-67 misdeeds of a temporary training permit holder acting at the  
 22-68 supervisor's discretion.

22-69           (b) A temporary training permit holder may not:

23-1 (1) own, manage, or independently operate a business  
 23-2 that engages in the fitting or sale of hearing instruments; or  
 23-3 (2) advertise or otherwise represent that the permit  
 23-4 holder holds a license under this chapter [~~as a hearing instrument~~  
 23-5 ~~dispenser~~].

23-6 SECTION 1.112. Sections 402.257(a), (c), and (d),  
 23-7 Occupations Code, are amended to read as follows:

23-8 (a) On the request of a supervisor or temporary training  
 23-9 permit holder, the department [~~committee~~] may approve a transfer of  
 23-10 a permit holder from the permit holder's supervisor to another  
 23-11 eligible supervisor before completion of the training.

23-12 (c) The department [~~committee~~] may approve a second  
 23-13 transfer request before completion of the training only under  
 23-14 exceptional circumstances. The department [~~committee~~] may not  
 23-15 approve more than two transfers.

23-16 (d) If a transfer is approved, credit may be transferred at  
 23-17 the discretion of the department [~~committee~~].

23-18 SECTION 1.113. Sections 402.301(a) and (f), Occupations  
 23-19 Code, are amended to read as follows:

23-20 (a) A license under this chapter is valid for two years. The  
 23-21 department [~~committee~~] shall renew the license every two years on  
 23-22 payment of the renewal fee unless the license is suspended or  
 23-23 revoked.

23-24 (f) The department [~~committee~~] may not renew a license  
 23-25 unless the license holder provides proof that all equipment that is  
 23-26 used by the license holder to produce a measurement in the testing  
 23-27 of hearing acuity has been properly calibrated or certified by a  
 23-28 qualified technician.

23-29 SECTION 1.114. Sections 402.303(a), (b), (c), (d), and  
 23-30 (e-1), Occupations Code, are amended to read as follows:

23-31 (a) The commission [~~committee~~] by rule shall adopt  
 23-32 requirements for the continuing education of a license holder,  
 23-33 including online continuing education requirements and a  
 23-34 requirement that a license holder complete 20 hours of continuing  
 23-35 education every two years. The department [~~committee~~] may not  
 23-36 renew a license unless the license holder demonstrates compliance  
 23-37 with the continuing education requirements established by the  
 23-38 commission by rule [~~committee~~].

23-39 (b) A license holder shall provide written proof of  
 23-40 attendance or completion of an approved course on a form prescribed  
 23-41 by the department [~~committee~~].

23-42 (c) The department [~~committee~~] may waive compliance with  
 23-43 the continuing education requirement for license renewal for a  
 23-44 license holder who provides evidence of hardship or inability to  
 23-45 meet the requirement. The waiver may be granted after review by the  
 23-46 department [~~committee~~] on an annual basis.

23-47 (d) The commission [~~committee~~] shall adopt rules to  
 23-48 establish reasonable requirements for continuing education  
 23-49 sponsors and courses and to clearly define what constitutes a  
 23-50 manufacturer or nonmanufacturer sponsor. The department shall  
 23-51 review and approve continuing education sponsor and course  
 23-52 applications. The department may request assistance from licensed  
 23-53 members of the advisory board [~~committee~~] in approving a sponsor or  
 23-54 course. The department must provide a list of approved continuing  
 23-55 education sponsors and continuing education courses, including  
 23-56 online courses. The list must be revised and updated periodically.  
 23-57 Any continuing education activity must be provided by an approved  
 23-58 sponsor. The department shall approve at least five hours of  
 23-59 specific courses each year.

23-60 (e-1) The department [~~committee~~] must allow a license  
 23-61 holder to report at least 10 hours of online continuing education  
 23-62 credit hours in a single reporting period.

23-63 SECTION 1.115. Section 402.304(b), Occupations Code, is  
 23-64 amended to read as follows:

23-65 (b) A license holder may be credited with continuing  
 23-66 education credit hours for a published book or article written by  
 23-67 the license holder that contributes to the license holder's  
 23-68 professional competence. The department [~~continuing education~~  
 23-69 ~~committee~~] may grant credit hours based on the degree to which the

24-1 published book or article advances knowledge regarding the fitting  
 24-2 and dispensing of hearing instruments. A license holder may claim  
 24-3 in a reporting period not more than five credit hours for  
 24-4 preparation of a publication.

24-5 SECTION 1.116. Section 402.305, Occupations Code, is  
 24-6 amended to read as follows:

24-7 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The  
 24-8 department [~~committee~~] may renew the license of a license holder  
 24-9 who does not comply with the continuing education requirements of  
 24-10 Section [~~Sections~~] 402.303 or 402.304 if the license holder:

24-11 (1) was licensed for the first time during the 24  
 24-12 months before the reporting date;

24-13 (2) has served in the regular armed forces of the  
 24-14 United States during part of the 24 months before the reporting  
 24-15 date; or

24-16 (3) submits proof from an attending physician that the  
 24-17 license holder suffered a serious or disabling illness or physical  
 24-18 disability that prevented compliance with the continuing education  
 24-19 requirements during the 24 months before the reporting date.

24-20 SECTION 1.117. Section 402.306, Occupations Code, is  
 24-21 amended to read as follows:

24-22 Sec. 402.306. DUPLICATE LICENSE. The department  
 24-23 [~~committee~~] shall issue a duplicate license to a license holder  
 24-24 whose license has been lost or destroyed. The department  
 24-25 [~~committee~~] may prescribe the procedure and requirements for  
 24-26 issuance of a duplicate license.

24-27 SECTION 1.118. Section 402.351, Occupations Code, is  
 24-28 amended to read as follows:

24-29 Sec. 402.351. DISPLAY OF LICENSE. A person engaged in  
 24-30 fitting and dispensing hearing instruments shall display the  
 24-31 person's license in a conspicuous place in the person's principal  
 24-32 office and, when required, shall exhibit the license to the  
 24-33 department [~~committee~~] or its authorized representative.

24-34 SECTION 1.119. Section 402.353(c), Occupations Code, is  
 24-35 amended to read as follows:

24-36 (c) The commission [~~committee~~] shall adopt rules necessary  
 24-37 to enforce this section.

24-38 SECTION 1.120. Section 402.401, Occupations Code, is  
 24-39 amended to read as follows:

24-40 Sec. 402.401. TRIAL PERIOD. The commission by rule  
 24-41 [~~committee~~] shall establish guidelines for a 30-day trial period  
 24-42 during which a person may cancel the purchase of a hearing  
 24-43 instrument.

24-44 SECTION 1.121. Section 402.403, Occupations Code, is  
 24-45 amended to read as follows:

24-46 Sec. 402.403. WRITTEN CONTRACT. The owner of a hearing  
 24-47 instrument fitting and dispensing practice shall ensure that each  
 24-48 client receives a written contract at the time of purchase of a  
 24-49 hearing instrument that contains:

24-50 (1) the signature of the license holder who dispensed  
 24-51 the hearing instrument;

24-52 (2) the printed name of the license holder who  
 24-53 dispensed the hearing instrument;

24-54 (3) the address of the principal office of the license  
 24-55 holder who dispensed the hearing instrument;

24-56 (4) the license number of the license holder who  
 24-57 dispensed the hearing instrument;

24-58 (5) a description of the make and model of the hearing  
 24-59 instrument;

24-60 (6) the amount charged for the hearing instrument;

24-61 (7) a statement of whether the hearing instrument is  
 24-62 new, used, or rebuilt;

24-63 (8) notice of the 30-day trial period under Section  
 24-64 402.401; and

24-65 (9) the name, mailing address, e-mail address, and  
 24-66 telephone number of the department [~~committee~~].

24-67 SECTION 1.122. Section 402.404, Occupations Code, is  
 24-68 amended to read as follows:

24-69 Sec. 402.404. SURETY BONDING. (a) A sole proprietor,

25-1 partnership, corporation, or other legal entity engaged in the  
 25-2 fitting and dispensing of hearing instruments shall file with the  
 25-3 department [~~committee~~] security in a form provided by Subsection  
 25-4 (b) in the amount of \$10,000 and conditioned on the promise to pay  
 25-5 all:

25-6 (1) taxes and contributions owed to the state and  
 25-7 political subdivisions of the state by the entity; and

25-8 (2) judgments that the entity may be required to pay  
 25-9 for:

25-10 (A) negligently or improperly dispensing hearing  
 25-11 instruments; or

25-12 (B) breaching a contract relating to the  
 25-13 dispensing of hearing instruments.

25-14 (b) The security may be a bond, a cash deposit, or another  
 25-15 negotiable security acceptable to the department [~~committee~~].

25-16 (c) A bond required by this section remains in effect until  
 25-17 canceled by action of the surety, the principal, or the department  
 25-18 [~~committee~~]. A person must take action on the bond not later than  
 25-19 the third anniversary of the date the bond is canceled.

25-20 SECTION 1.123. Section 402.451(a), Occupations Code, is  
 25-21 amended to read as follows:

25-22 (a) A person may not:

25-23 (1) buy, sell, or fraudulently obtain a license or aid  
 25-24 another person to do so;

25-25 (2) alter a license with the intent to defraud;

25-26 (3) wilfully make a false statement in an application  
 25-27 to the department [~~committee~~] for a license, a temporary training  
 25-28 permit, or the renewal of a license;

25-29 (4) falsely impersonate a license holder;

25-30 (5) engage in the fitting and dispensing of hearing  
 25-31 instruments when the person's license is suspended or revoked;

25-32 (6) dispense or fit a hearing instrument on a person  
 25-33 who has ordered the hearing instrument or device by mail unless the  
 25-34 person dispensing or fitting is a license holder under this chapter  
 25-35 or under Chapter 401; or

25-36 (7) sell a hearing instrument by mail.

25-37 SECTION 1.124. Section 402.501, Occupations Code, as  
 25-38 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 25-39 2015, is amended to read as follows:

25-40 Sec. 402.501. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY  
 25-41 ACTION. The commission or executive director [~~committee~~] may  
 25-42 refuse to issue or renew a license, revoke or suspend a license or  
 25-43 permit, place on probation a person whose license or permit has been  
 25-44 suspended, or reprimand a license or permit holder who:

25-45 (1) makes a material misstatement in furnishing  
 25-46 information to the department [~~committee~~] or to another state or  
 25-47 federal agency;

25-48 (2) violates this chapter or a rule adopted under this  
 25-49 chapter;

25-50 (3) is convicted of a felony or misdemeanor that  
 25-51 includes dishonesty as an essential element or of a crime directly  
 25-52 related to the practice of fitting and dispensing hearing  
 25-53 instruments;

25-54 (4) makes a misrepresentation for the purpose of  
 25-55 obtaining or renewing a license, including falsifying the  
 25-56 educational requirements under this chapter;

25-57 (5) is professionally incompetent or engages in  
 25-58 malpractice or dishonorable, unethical, or unprofessional conduct  
 25-59 that is likely to deceive, defraud, or harm the public;

25-60 (6) aids or assists another person in violating this  
 25-61 chapter or a rule adopted under this chapter;

25-62 (7) does not provide information in response to a  
 25-63 written request made by the department within 60 days;

25-64 (8) directly or indirectly knowingly employs, hires,  
 25-65 procures, or induces a person not licensed under this chapter to fit  
 25-66 and dispense hearing instruments unless the person is exempt under  
 25-67 this chapter;

25-68 (9) aids a person not licensed under this chapter in  
 25-69 the fitting or dispensing of hearing instruments unless the person

26-1 is exempt under this chapter;

26-2 (10) is habitually intoxicated or addicted to a

26-3 controlled substance;

26-4 (11) directly or indirectly gives to or receives from

26-5 a person a fee, commission, rebate, or other form of compensation

26-6 for a service not actually provided;

26-7 (12) violates a term of probation;

26-8 (13) wilfully makes or files a false record or report;

26-9 (14) has a physical illness that results in the

26-10 inability to practice the profession with reasonable judgment,

26-11 skill, or safety, including the deterioration or loss of motor

26-12 skills through aging;

26-13 (15) solicits a service by advertising that is false

26-14 or misleading;

26-15 (16) participates in subterfuge or misrepresentation

26-16 in the fitting or dispensing of a hearing instrument;

26-17 (17) knowingly advertises for sale a model or type of

26-18 hearing instrument that cannot be purchased;

26-19 (18) falsely represents that the service of a licensed

26-20 physician or other health professional will be used or made

26-21 available in the fitting, adjustment, maintenance, or repair of a

26-22 hearing instrument;

26-23 (19) falsely uses the term "doctor," "audiologist,"

26-24 "clinic," "clinical audiologist," "state licensed," "state

26-25 certified," "licensed hearing instrument dispenser," "board

26-26 certified hearing instrument specialist," "hearing instrument

26-27 specialist," or "certified hearing aid audiologist," or uses any

26-28 other term, abbreviation, or symbol that falsely gives the

26-29 impression that:

26-30 (A) a service is being provided by a person who is

26-31 licensed or has been awarded a degree or title; or

26-32 (B) the person providing a service has been

26-33 recommended by a government agency or health provider;

26-34 (20) advertises a manufacturer's product or uses a

26-35 manufacturer's name or trademark in a way that implies a

26-36 relationship between a license or permit holder and a manufacturer

26-37 that does not exist;

26-38 (21) directly or indirectly gives or offers to give,

26-39 or permits or causes to be given, money or another thing of value to

26-40 a person who advises others in a professional capacity as an

26-41 inducement to influence the person to influence the others to:

26-42 (A) purchase or contract to purchase products

26-43 sold or offered for sale by the license or permit holder; or

26-44 (B) refrain from purchasing or contracting to

26-45 purchase products sold or offered for sale by another license or

26-46 permit holder under this chapter;

26-47 (22) with fraudulent intent fits and dispenses a

26-48 hearing instrument under any name, including a false name or alias;

26-49 (23) does not adequately provide for the service or

26-50 repair of a hearing instrument fitted and sold by the license

26-51 holder; or

26-52 (24) violates a regulation of the federal Food and

26-53 Drug Administration or the Federal Trade Commission relating to

26-54 hearing instruments.

26-55 SECTION 1.125. The heading to Section 402.551, Occupations

26-56 Code, is amended to read as follows:

26-57 Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

26-58 SECTION 1.126. Section 402.551(b), Occupations Code, is

26-59 amended to read as follows:

26-60 (b) The amount of an [the] administrative penalty imposed

26-61 for a violation of this chapter or a rule adopted or order issued

26-62 under this chapter may not exceed \$250 plus costs for the first

26-63 violation and \$1,000 plus costs for each subsequent violation.

26-64 SECTION 1.127. Section 402.5521, Occupations Code, is

26-65 amended to read as follows:

26-66 Sec. 402.5521. [~~COMMITTEE-ORDERED~~] REFUND FOR HEARING

26-67 INSTRUMENT. The commission or executive director [~~committee~~] may

26-68 order a license holder to pay a refund to a consumer who returns a

26-69 hearing instrument during the 30-day trial period required by rules

27-1 adopted under Section 402.1021.

27-2 SECTION 1.128. Section 402.553(a), Occupations Code, is  
27-3 amended to read as follows:

27-4 (a) A person who violates this chapter or a rule adopted or  
27-5 order issued [~~adopted by the committee~~] under this chapter is  
27-6 liable for a civil penalty not to exceed \$5,000 a day.

27-7 SECTION 1.129. Section 403.001, Occupations Code, as  
27-8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27-9 2015, is amended by adding Subdivision (1) and amending  
27-10 Subdivisions (2) and (3) to read as follows:

27-11 (1) "Commission" means the Texas Commission of  
27-12 Licensing and Regulation.

27-13 (2) "Department" means the Texas Department of  
27-14 Licensing and Regulation [~~State Health Services~~].

27-15 (3) "Executive director" [~~commissioner~~] means the  
27-16 executive director [~~commissioner~~] of the department [~~Health and~~  
27-17 ~~Human Services Commission~~].

27-18 SECTION 1.130. Section 403.051, Occupations Code, is  
27-19 amended to read as follows:

27-20 Sec. 403.051. ADVISORY COMMITTEE. The department shall  
27-21 appoint an advisory committee to provide advice and recommendations  
27-22 to [~~advise~~] the department on technical matters relevant to the  
27-23 administration of [~~in administering~~] this chapter.

27-24 SECTION 1.131. Subchapter B, Chapter 403, Occupations Code,  
27-25 is amended by adding Section 403.0511 to read as follows:

27-26 Sec. 403.0511. GENERAL POWERS AND DUTIES. The executive  
27-27 director shall administer and enforce this chapter.

27-28 SECTION 1.132. Section 403.052, Occupations Code, is  
27-29 amended to read as follows:

27-30 Sec. 403.052. STANDARDS OF ETHICAL PRACTICE [~~RULES~~]. The  
27-31 commission [~~executive commissioner~~] shall adopt rules [~~necessary~~  
27-32 ~~to administer and enforce this chapter, including rules~~] that  
27-33 establish standards of ethical practice.

27-34 SECTION 1.133. Section 403.103(a), Occupations Code, is  
27-35 amended to read as follows:

27-36 (a) A license applicant must apply to the department on a  
27-37 form and in the manner prescribed by the executive director [~~the~~  
27-38 ~~department prescribes~~].

27-39 SECTION 1.134. The heading to Section 403.107, Occupations  
27-40 Code, is amended to read as follows:

27-41 Sec. 403.107. EXAMINATION [~~, RULES~~].

27-42 SECTION 1.135. Section 403.107(a), Occupations Code, as  
27-43 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27-44 2015, is amended to read as follows:

27-45 (a) To obtain a license, an applicant must:

27-46 (1) pass a written examination approved by the  
27-47 department under Subsection (b); and

27-48 (2) pay the required fees [~~set by the executive~~  
27-49 ~~commissioner by rule~~].

27-50 SECTION 1.136. Sections 403.152(a) and (b), Occupations  
27-51 Code, are amended to read as follows:

27-52 (a) A license holder's license may not be renewed unless the  
27-53 license holder meets the continuing education requirements  
27-54 established by the commission by rule [~~executive commissioner~~].

27-55 (b) The commission [~~executive commissioner~~], in  
27-56 consultation with the advisory committee, shall establish the  
27-57 continuing education requirements in a manner that allows a license  
27-58 holder to comply without an extended absence from the license  
27-59 holder's county of residence.

27-60 SECTION 1.137. The heading to Subchapter E, Chapter 403,  
27-61 Occupations Code, is amended to read as follows:

27-62 SUBCHAPTER E. LICENSE DENIAL; [COMPLAINT AND] DISCIPLINARY  
27-63 PROCEDURES

27-64 SECTION 1.138. Section 403.202, Occupations Code, as  
27-65 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27-66 2015, is amended to read as follows:

27-67 Sec. 403.202. PROHIBITED ACTIONS. A license holder may  
27-68 not:

27-69 (1) obtain a license by means of fraud,

28-1 misrepresentation, or concealment of a material fact;  
 28-2 (2) sell, barter, or offer to sell or barter a license;  
 28-3 or  
 28-4 (3) engage in unprofessional conduct that endangers or  
 28-5 is likely to endanger the health, welfare, or safety of the public  
 28-6 as defined by commission [~~department~~] rule.

28-7 SECTION 1.139. Section 403.203, Occupations Code, is  
 28-8 amended to read as follows:

28-9 Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a  
 28-10 license holder violates this chapter or a rule or code of ethics  
 28-11 adopted by the commission [~~executive commissioner~~], the commission  
 28-12 or executive director [~~department~~] shall:

- 28-13 (1) revoke or suspend the license;
- 28-14 (2) place on probation the person if the person's  
 28-15 license has been suspended;
- 28-16 (3) reprimand the license holder; or
- 28-17 (4) refuse to renew the license.

28-18 SECTION 1.140. Section 403.204(a), Occupations Code, is  
 28-19 amended to read as follows:

28-20 (a) The commission or executive director [~~department~~] may  
 28-21 deny a license or may suspend or revoke a license if the applicant  
 28-22 or license holder has been convicted of a misdemeanor involving  
 28-23 moral turpitude or a felony. The commission or executive director  
 28-24 [~~department~~] may take action authorized by this section when:

- 28-25 (1) the time for appeal of the person's conviction has  
 28-26 elapsed;
- 28-27 (2) the judgment or conviction has been affirmed on  
 28-28 appeal; or
- 28-29 (3) an order granting probation is made suspending the  
 28-30 imposition of the person's sentence, without regard to whether a  
 28-31 subsequent order:
  - 28-32 (A) allows withdrawal of a plea of guilty;
  - 28-33 (B) sets aside a verdict of guilty; or
  - 28-34 (C) dismisses an information or indictment.

28-35 SECTION 1.141. Section 403.207(a), Occupations Code, is  
 28-36 amended to read as follows:

28-37 (a) The commission [~~executive commissioner~~], in  
 28-38 consultation with the advisory committee, by rule shall adopt a  
 28-39 broad schedule of sanctions for a violation of this chapter.

28-40 SECTION 1.142. Section 403.209, Occupations Code, is  
 28-41 amended to read as follows:

28-42 Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The  
 28-43 commission [~~executive commissioner~~] by rule shall develop a system  
 28-44 for monitoring a license holder's compliance with the requirements  
 28-45 of this chapter.

28-46 (b) Rules adopted under this section must include  
 28-47 procedures to:

- 28-48 (1) monitor for compliance a license holder who is  
 28-49 ordered by the commission or executive director [~~department~~] to  
 28-50 perform certain acts; and
- 28-51 (2) identify and monitor license holders who represent  
 28-52 a risk to the public.

28-53 SECTION 1.143. Section 403.212, Occupations Code, is  
 28-54 amended to read as follows:

28-55 Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) In  
 28-56 addition to other disciplinary action authorized by this  
 28-57 subchapter, the commission or executive director [~~department~~] may:

- 28-58 (1) issue a written reprimand to a license holder who  
 28-59 violates this chapter; or
- 28-60 (2) require that a license holder who violates this  
 28-61 chapter attend continuing education programs.

28-62 (b) The commission or executive director [~~department~~], in  
 28-63 consultation with the advisory committee, may specify the number of  
 28-64 hours of continuing education that must be completed by a license  
 28-65 holder to fulfill the requirement of Subsection (a)(2).

28-66 SECTION 1.144. The heading to Subchapter F, Chapter 403,  
 28-67 Occupations Code, is amended to read as follows:

28-68 SUBCHAPTER F. PENALTIES [~~AND OTHER ENFORCEMENT PROCEDURES~~]

28-69 SECTION 1.145. Section 403.251(a), Occupations Code, as

29-1 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
29-2 2015, is amended to read as follows:

29-3 (a) A person who violates this chapter ~~or~~<sup>[7]</sup> a rule adopted  
29-4 ~~[by the executive commissioner under this chapter,]~~ or ~~[an]~~ order  
29-5 ~~issued [adopted by the department]~~ under this chapter is liable for  
29-6 a civil penalty not to exceed \$500 for each occurrence.

29-7 SECTION 1.146. Section 451.001, Occupations Code, is  
29-8 amended by amending Subdivision (2), amending Subdivisions (5) and  
29-9 (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular  
29-10 Session, 2015, and adding Subdivision (7) to read as follows:

29-11 (2) "Athletic trainer" means a person who practices  
29-12 athletic training, is licensed by the department ~~[board]~~, and may  
29-13 use the initials "LAT," "LATC," and "AT" to designate the person as  
29-14 an athletic trainer. The terms "sports trainer" and "licensed  
29-15 athletic trainer" are equivalent to "athletic trainer."

29-16 (5) "Commission" ~~["Commissioner"]~~ means the Texas  
29-17 Commission of Licensing and Regulation ~~[commissioner of state~~  
29-18 ~~health services]~~.

29-19 (6) "Department" means the Texas Department of  
29-20 Licensing and Regulation ~~[State Health Services]~~.

29-21 (7) "Executive director" means the executive director  
29-22 of the department.

29-23 SECTION 1.147. Section 451.003, Occupations Code, as  
29-24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
29-25 2015, is amended to read as follows:

29-26 Sec. 451.003. APPLICABILITY. This chapter does not apply  
29-27 to:

29-28 (1) a physician licensed by the Texas Medical Board;

29-29 (2) a dentist, licensed under the laws of this state,  
29-30 engaged in the practice of dentistry;

29-31 (3) a licensed optometrist or therapeutic optometrist  
29-32 engaged in the practice of optometry or therapeutic optometry as  
29-33 defined by statute;

29-34 (4) an occupational therapist engaged in the practice  
29-35 of occupational therapy;

29-36 (5) a nurse engaged in the practice of nursing;

29-37 (6) a licensed podiatrist engaged in the practice of  
29-38 podiatry as defined by statute;

29-39 (7) a physical therapist engaged in the practice of  
29-40 physical therapy;

29-41 (8) a registered massage therapist engaged in the  
29-42 practice of massage therapy;

29-43 (9) a commissioned or contract physician, physical  
29-44 therapist, or physical therapist assistant in the United States  
29-45 Army, Navy, Air Force, or Public Health Service; or

29-46 (10) an athletic trainer who does not live in this  
29-47 state, who is licensed, registered, or certified by an authority  
29-48 recognized by the department ~~[board]~~, and who provides athletic  
29-49 training in this state for a period determined by the department  
29-50 ~~[board]~~.

29-51 SECTION 1.148. Section 451.051(b), Occupations Code, is  
29-52 amended to read as follows:

29-53 (b) The board consists of five members appointed by the  
29-54 presiding officer of the commission ~~[governor]~~ with the approval  
29-55 ~~[advice and consent]~~ of the commission ~~[senate]~~ as follows:

29-56 (1) three members who are athletic trainers; and

29-57 (2) two members who represent the public.

29-58 SECTION 1.149. Subchapter B, Chapter 451, Occupations Code,  
29-59 is amended by adding Section 451.0521 to read as follows:

29-60 Sec. 451.0521. DUTIES OF BOARD. The board shall provide  
29-61 advice and recommendations to the department on technical matters  
29-62 relevant to the administration of this chapter.

29-63 SECTION 1.150. Section 451.053(b), Occupations Code, is  
29-64 amended to read as follows:

29-65 (b) If a vacancy occurs on the board, the presiding officer  
29-66 of the commission, with the commission's approval, ~~[governor]~~ shall  
29-67 appoint a replacement who meets the qualifications for the vacant  
29-68 position ~~[successor]~~ to serve for the unexpired portion of the  
29-69 term.

30-1 SECTION 1.151. Section 451.055, Occupations Code, is  
 30-2 amended to read as follows:

30-3 Sec. 451.055. PRESIDING OFFICER [~~OFFICERS~~]. [~~(a)~~] The  
 30-4 presiding officer of the commission [~~governor~~] shall designate a  
 30-5 member of the board [~~as the board's presiding officer~~] to serve as  
 30-6 the presiding officer of the board for [~~in that capacity at the will~~  
 30-7 ~~of the governor. The board shall elect an assistant presiding~~  
 30-8 ~~officer and secretary-treasurer from its members. The assistant~~  
 30-9 ~~presiding officer and secretary-treasurer serve~~] a one-year term.  
 30-10 The presiding officer of the board may vote on any matter before the  
 30-11 board.

30-12 SECTION 1.152. Section 451.056, Occupations Code, is  
 30-13 amended to read as follows:

30-14 Sec. 451.056. MEETINGS. The board shall meet at [~~least~~  
 30-15 ~~twice a year. The board may hold additional meetings on~~] the call  
 30-16 of the presiding officer of the commission or the executive  
 30-17 director [~~at the written request of any three members of the board~~].

30-18 SECTION 1.153. The heading to Subchapter C, Chapter 451,  
 30-19 Occupations Code, is amended to read as follows:

30-20 SUBCHAPTER C. [BOARD] POWERS AND DUTIES

30-21 SECTION 1.154. Section 451.101, Occupations Code, is  
 30-22 amended by amending Subsection (a) and adding Subsections (a-1) and  
 30-23 (a-2) to read as follows:

30-24 (a) The executive director shall administer and enforce  
 30-25 this chapter.

30-26 (a-1) The department [~~board~~] shall:

- 30-27 (1) adopt an official seal;
- 30-28 (2) prescribe the application form for a license  
 30-29 applicant;
- 30-30 (3) prescribe a suitable form for a license  
 30-31 certificate; [~~and~~]
- 30-32 (4) prepare and conduct an examination for license  
 30-33 applicants;
- 30-34 (5) maintain a complete record of all licensed  
 30-35 athletic trainers; and

30-36 (6) annually prepare a roster showing the names and  
 30-37 addresses of all licensed athletic trainers.

30-38 (a-2) The department shall make a copy of the roster  
 30-39 available to any person requesting it on payment of a fee  
 30-40 established by the department in an amount sufficient to cover the  
 30-41 cost of the roster.

30-42 SECTION 1.155. The heading to Section 451.110, Occupations  
 30-43 Code, is amended to read as follows:

30-44 Sec. 451.110. CONFIDENTIALITY OF COMPLAINT AND  
 30-45 DISCIPLINARY INFORMATION [~~SUBPOENAS~~].

30-46 SECTION 1.156. Sections 451.110(h) and (i), Occupations  
 30-47 Code, are amended to read as follows:

30-48 (h) All information and materials subpoenaed or compiled by  
 30-49 the department [~~board~~] in connection with a complaint and  
 30-50 investigation are confidential and not subject to disclosure under  
 30-51 Chapter 552, Government Code, and not subject to disclosure,  
 30-52 discovery, subpoena, or other means of legal compulsion for their  
 30-53 release to anyone other than the department [~~board~~] or its  
 30-54 employees or agents involved in discipline of the holder of a  
 30-55 license, except that this information may be disclosed to:

- 30-56 (1) persons involved with the department [~~board~~] in a  
 30-57 disciplinary action against the holder of a license;
- 30-58 (2) athletic trainer licensing or disciplinary boards  
 30-59 in other jurisdictions;
- 30-60 (3) peer assistance programs approved by the  
 30-61 commission [~~board~~] under Chapter 467, Health and Safety Code;
- 30-62 (4) law enforcement agencies; and
- 30-63 (5) persons engaged in bona fide research, if all  
 30-64 individual-identifying information has been deleted.

30-65 (i) The filing of formal charges by the department [~~board~~]  
 30-66 against a holder of a license, the nature of those charges,  
 30-67 disciplinary proceedings of the department, commission, or  
 30-68 executive director [~~board~~], and final disciplinary actions,  
 30-69 including warnings and reprimands, by the department, commission,

31-1 or executive director [board] are not confidential and are subject  
 31-2 to disclosure in accordance with Chapter 552, Government Code.

31-3 SECTION 1.157. Section 451.152, Occupations Code, is  
 31-4 amended to read as follows:

31-5 Sec. 451.152. LICENSE APPLICATION. An applicant for an  
 31-6 athletic trainer license must submit to the department [board]:

31-7 (1) an application in the manner and on a form  
 31-8 prescribed by the executive director [board]; and

31-9 (2) the required examination fee.

31-10 SECTION 1.158. Section 451.153, Occupations Code, is  
 31-11 amended to read as follows:

31-12 Sec. 451.153. APPLICANT QUALIFICATIONS. (a) An applicant  
 31-13 for an athletic trainer license must:

31-14 (1) have met the athletic training curriculum  
 31-15 requirements of a college or university approved by the commission  
 31-16 [board] and give proof of graduation;

31-17 (2) hold a degree or certificate in physical therapy  
 31-18 and have completed:

31-19 (A) a basic athletic training course from an  
 31-20 accredited college or university; and

31-21 (B) an apprenticeship described by Subsection  
 31-22 (b); or

31-23 (3) have a degree in corrective therapy with at least a  
 31-24 minor in physical education or health that includes a basic  
 31-25 athletic training course and meet the apprenticeship requirement or  
 31-26 any other requirement established by the commission [board].

31-27 (b) The apprenticeship required to be completed by an  
 31-28 applicant consists of 720 hours completed in two years under the  
 31-29 direct supervision of a licensed athletic trainer acceptable to the  
 31-30 department [board]. Actual working hours include a minimum of 20  
 31-31 hours a week during each fall semester.

31-32 SECTION 1.159. Section 451.156, Occupations Code, is  
 31-33 amended to read as follows:

31-34 Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An  
 31-35 applicant for an athletic trainer license is entitled to receive  
 31-36 the license if the applicant:

31-37 (1) satisfies the requirements of Section 451.153 or  
 31-38 451.154;

31-39 (2) passes [satisfactorily completes] the examination  
 31-40 required [administered] by the department [board];

31-41 (3) pays the required license fee; and

31-42 (4) has not committed an act that constitutes grounds  
 31-43 for refusal of a license under Section 451.251.

31-44 SECTION 1.160. Section 451.157, Occupations Code, is  
 31-45 amended to read as follows:

31-46 Sec. 451.157. TEMPORARY LICENSE. (a) The department  
 31-47 [board] may issue a temporary license to an applicant if the  
 31-48 applicant satisfies:

31-49 (1) the requirements of Section 451.153 or 451.154;  
 31-50 and

31-51 (2) any other requirement established by the  
 31-52 commission [board].

31-53 (b) The commission [board] by rule shall prescribe the time  
 31-54 during which a temporary license is valid.

31-55 SECTION 1.161. The heading to Section 451.201, Occupations  
 31-56 Code, is amended to read as follows:

31-57 Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

31-58 SECTION 1.162. Section 451.201(a), Occupations Code, as  
 31-59 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 31-60 2015, is amended to read as follows:

31-61 (a) A license issued under Section 451.156 expires on the  
 31-62 second anniversary of the date of issuance and may be renewed  
 31-63 biennially.

31-64 SECTION 1.163. Section 451.251(a), Occupations Code, is  
 31-65 amended to read as follows:

31-66 (a) The commission or executive director [board] may refuse  
 31-67 to issue a license to an applicant and shall reprimand a license  
 31-68 holder or suspend, revoke, or refuse to renew a person's license if  
 31-69 the person:

32-1 (1) has been convicted of a misdemeanor involving  
32-2 moral turpitude or a felony;  
32-3 (2) obtained the license by fraud or deceit;  
32-4 (3) violated or conspired to violate this chapter or a  
32-5 rule adopted under this chapter; or  
32-6 (4) provided services outside the scope of practice of  
32-7 athletic training.

32-8 SECTION 1.164. The heading to Section 451.351, Occupations  
32-9 Code, is amended to read as follows:  
32-10 Sec. 451.351. AMOUNT [~~IMPOSITION~~] OF ADMINISTRATIVE  
32-11 PENALTY.

32-12 SECTION 1.165. Section 451.351(c), Occupations Code, is  
32-13 amended to read as follows:  
32-14 (c) The amount of an administrative [~~the~~] penalty imposed  
32-15 for a violation of this chapter or a rule adopted or order issued  
32-16 under this chapter may not exceed \$500 for each violation, and each  
32-17 day a violation continues or occurs is a separate violation for  
32-18 purposes of imposing a penalty. The total amount of the penalty  
32-19 assessed for a violation continuing or occurring on separate days  
32-20 under this subsection may not exceed \$2,500.

32-21 SECTION 1.166. Section 605.002, Occupations Code, is  
32-22 amended by amending Subdivision (1), amending Subdivision (5), as  
32-23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
32-24 2015, and adding Subdivisions (2) and (5-a) to read as follows:  
32-25 (1) "Advisory board" [~~"Board"~~] means the Orthotists  
32-26 and Prosthetists Advisory [~~Texas~~] Board [~~of Orthotics and~~  
32-27 ~~Prosthetics~~].  
32-28 (2) "Commission" means the Texas Commission of  
32-29 Licensing and Regulation.  
32-30 (5) "Department" means the Texas Department of  
32-31 Licensing and Regulation [~~State Health Services~~].  
32-32 (5-a) "Executive director" means the executive  
32-33 director of the department.

32-34 SECTION 1.167. The heading to Subchapter B, Chapter 605,  
32-35 Occupations Code, is amended to read as follows:  
32-36 SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY [~~TEXAS~~] BOARD  
32-37 [~~OF ORTHOTICS AND PROSTHETICS~~]

32-38 SECTION 1.168. Section 605.052, Occupations Code, is  
32-39 amended to read as follows:  
32-40 Sec. 605.052. ADVISORY [~~APPOINTMENT OF~~] BOARD [~~+~~]  
32-41 MEMBERSHIP. (a) The advisory board consists of seven members  
32-42 appointed by the presiding officer of the commission [~~governor~~]  
32-43 with the approval [~~advice and consent~~] of the commission [~~senate~~]  
32-44 as follows:  
32-45 (1) two [~~one~~] licensed orthotist members [~~member~~] who  
32-46 each have [~~has~~] practiced orthotics for the five years preceding  
32-47 the date of appointment;  
32-48 (2) two [~~one~~] licensed prosthetist members [~~member~~]  
32-49 who each have [~~has~~] practiced prosthetics for the five years  
32-50 preceding the date of appointment;  
32-51 (3) one licensed prosthetist orthotist member who has  
32-52 practiced orthotics and prosthetics for the five years preceding  
32-53 the date of appointment;  
32-54 (4) one member who is a representative of the public  
32-55 who uses an orthosis; and  
32-56 (5) one member who is a representative of the public  
32-57 who uses a prosthesis [~~, and~~]  
32-58 [~~(6) two members who are representatives of the public~~  
32-59 ~~who do not use an orthosis or prosthesis~~].  
32-60 (b) Appointments to the advisory board shall be made without  
32-61 regard to the race, color, disability, sex, religion, age, or  
32-62 national origin of the appointee.

32-63 SECTION 1.169. Subchapter B, Chapter 605, Occupations Code,  
32-64 is amended by adding Section 605.0521 to read as follows:  
32-65 Sec. 605.0521. DUTIES OF ADVISORY BOARD. The advisory  
32-66 board shall provide advice and recommendations to the department on  
32-67 technical matters relevant to the administration of this chapter.

32-68 SECTION 1.170. Section 605.055, Occupations Code, is  
32-69 amended to read as follows:

33-1 Sec. 605.055. TERMS; VACANCY. (a) Members of the advisory  
 33-2 board serve staggered six-year terms. The terms of two or three  
 33-3 members expire on February 1 of each odd-numbered year.

33-4 (b) If a vacancy occurs during a member's term, the  
 33-5 presiding officer of the commission, with the commission's  
 33-6 approval, [governor] shall appoint a replacement who meets the  
 33-7 qualifications for the vacant position [person] to serve for the  
 33-8 remainder of the term.

33-9 SECTION 1.171. Section 605.056, Occupations Code, is  
 33-10 amended to read as follows:

33-11 Sec. 605.056. PRESIDING OFFICER [OFFICERS]. The members of  
 33-12 the advisory board shall elect from the advisory board's membership  
 33-13 a presiding officer of the advisory board to serve for a term of one  
 33-14 year. The presiding officer of the advisory board may vote on any  
 33-15 matter before the advisory board[, a secretary, and other officers  
 33-16 as required to conduct the board's business].

33-17 SECTION 1.172. Section 605.059, Occupations Code, is  
 33-18 amended by amending Subsection (b) and adding Subsections (c) and  
 33-19 (d) to read as follows:

33-20 (b) The advisory [A special meeting of the] board shall meet  
 33-21 at the call of [be called by] the presiding officer of the  
 33-22 commission or the executive director [or on the written request of  
 33-23 any three members].

33-24 (c) Four or more advisory board members may call a special  
 33-25 meeting of the advisory board by providing written notice not less  
 33-26 than 14 days before the date of the meeting to:

- 33-27 (1) the presiding officer of the commission;
- 33-28 (2) the executive director; and
- 33-29 (3) all other members of the advisory board.

33-30 (d) Not more than two special meetings of the advisory board  
 33-31 may be called under Subsection (c) in a calendar year.

33-32 SECTION 1.173. Section 605.151, Occupations Code, is  
 33-33 amended to read as follows:

33-34 Sec. 605.151. GENERAL POWERS AND DUTIES [OF BOARD]. The  
 33-35 executive director shall administer and enforce this chapter [board  
 33-36 may:

- 33-37 [~~(1) investigate complaints;~~
- 33-38 [~~(2) issue, suspend, deny, and revoke licenses;~~
- 33-39 [~~(3) reprimand license holders and place license~~  
 33-40 ~~holders on probation;~~
- 33-41 [~~(4) in connection with a hearing under Section~~  
 33-42 ~~605.353, issue subpoenas;~~
- 33-43 [~~(5) hold hearings; and~~
- 33-44 [~~(6) use personnel, facilities, furniture, equipment,~~  
 33-45 ~~and other items supplied by the department to administer this~~  
 33-46 ~~chapter].~~

33-47 SECTION 1.174. Section 605.155, Occupations Code, is  
 33-48 amended to read as follows:

33-49 Sec. 605.155. EXAMINATIONS. The department [board] must  
 33-50 approve any examination required for a license under this chapter.  
 33-51 Each examination shall be offered at least once each year.

33-52 SECTION 1.175. The heading to Subchapter E, Chapter 605,  
 33-53 Occupations Code, is amended to read as follows:

33-54 SUBCHAPTER E. [PUBLIC INTEREST INFORMATION AND] COMPLAINT  
 33-55 INFORMATION [PROCEDURES]

33-56 SECTION 1.176. The heading to Section 605.2021, Occupations  
 33-57 Code, is amended to read as follows:

33-58 Sec. 605.2021. CONFIDENTIALITY OF COMPLAINT AND  
 33-59 DISCIPLINARY INFORMATION [SUBPOENAS].

33-60 SECTION 1.177. Sections 605.2021(h) and (i), Occupations  
 33-61 Code, are amended to read as follows:

33-62 (h) All information and materials subpoenaed or compiled by  
 33-63 the department [board] in connection with a complaint and  
 33-64 investigation are confidential and not subject to disclosure under  
 33-65 Chapter 552, Government Code, and not subject to disclosure,  
 33-66 discovery, subpoena, or other means of legal compulsion for their  
 33-67 release to anyone other than the department [board] or its  
 33-68 employees or agents involved in discipline of the holder of a  
 33-69 license, except that this information may be disclosed to:

34-1 (1) persons involved with the department [~~board~~] in a  
34-2 disciplinary action against the holder of a license;

34-3 (2) professional orthotist or prosthetist  
34-4 disciplinary boards in other jurisdictions;

34-5 (3) peer assistance programs approved by the  
34-6 commission [~~board~~] under Chapter 467, Health and Safety Code;

34-7 (4) law enforcement agencies; and

34-8 (5) persons engaged in bona fide research, if all  
34-9 individual-identifying information has been deleted.

34-10 (i) The filing of formal charges by the department [~~board~~]  
34-11 against a holder of a license, the nature of those charges,  
34-12 disciplinary proceedings of the department, commission, or  
34-13 executive director [~~board~~], and final disciplinary actions,  
34-14 including warnings and reprimands, by the department, commission,  
34-15 or executive director [~~board~~] are not confidential and are subject  
34-16 to disclosure in accordance with Chapter 552, Government Code.

34-17 SECTION 1.178. Section 605.251, Occupations Code, is  
34-18 amended to read as follows:

34-19 Sec. 605.251. LICENSE REQUIRED. A person may not practice,  
34-20 attempt to practice, or offer to practice orthotics or prosthetics,  
34-21 act as an assistant to a person who practices orthotics or  
34-22 prosthetics, or in any way hold the person out as being able to  
34-23 practice orthotics or prosthetics unless the person holds a license  
34-24 [~~issued by the board~~] under this chapter.

34-25 SECTION 1.179. Section 605.252, Occupations Code, is  
34-26 amended to read as follows:

34-27 Sec. 605.252. LICENSE ELIGIBILITY. (a) To be eligible for  
34-28 a license to practice orthotics or prosthetics in this state, a  
34-29 person must:

34-30 (1) submit an [~~file a written~~] application in the  
34-31 manner and [~~with the board~~] on the form prescribed by the  
34-32 executive  
director [~~board~~];

34-33 (2) pay the nonrefundable application fee;

34-34 (3) be a resident of this state;

34-35 (4) have completed formal training, including the  
34-36 required hours of classroom education and clinical practice, in an  
34-37 area of study the commission [~~board~~] by rule determines to be  
34-38 necessary and appropriate;

34-39 (5) have completed a clinical residency in the  
34-40 professional area for which a license is sought that complies with  
34-41 the standards, guidelines, or procedures established by the  
34-42 department [~~board~~] for a clinical residency that is offered in this  
34-43 state or another state; and

34-44 (6) have passed each written and practical examination  
34-45 approved and required by the department [~~board~~].

34-46 (b) The requirements for a license established by  
34-47 commission [~~board~~] rule must include the requirement that the  
34-48 applicant hold:

34-49 (1) a bachelor's or graduate degree in orthotics and  
34-50 prosthetics from:

34-51 (A) an education program recognized and  
34-52 accredited by the Commission on Accreditation of Allied Health  
34-53 Education Programs that is offered at an institution of higher  
34-54 education; or

34-55 (B) a practitioner education program that has  
34-56 education standards that are equivalent to or exceed the standards  
34-57 adopted by the Commission on Accreditation of Allied Health  
34-58 Education Programs; or

34-59 (2) a bachelor's degree in another subject and an  
34-60 orthotic or prosthetic certificate issued by a practitioner  
34-61 education program:

34-62 (A) recognized and accredited by the Commission  
34-63 on Accreditation of Allied Health Education Programs; or

34-64 (B) that has education standards that are  
34-65 equivalent to or exceed the standards adopted by the Commission on  
34-66 Accreditation of Allied Health Education Programs.

34-67 (c) To meet the clinical residency requirements for a  
34-68 license, the applicant must complete a professional clinical  
34-69 residency that meets the requirements established by commission

35-1 [~~board~~] rule and is conducted under the direct supervision of a  
 35-2 licensed orthotist, licensed prosthetist, or a licensed  
 35-3 prosthetist orthotist in the discipline for which licensure is  
 35-4 sought. The clinical residency requirements adopted by the  
 35-5 commission [~~board~~] must be equivalent to or exceed the standards  
 35-6 set by the National Commission on Orthotic and Prosthetic  
 35-7 Education.

35-8 (d) The department [~~board~~] may accept as a substitute for  
 35-9 the examination requirement proof that the license applicant holds  
 35-10 a license in a state that has licensing requirements that are equal  
 35-11 to or exceed the requirements of this chapter.

35-12 SECTION 1.180. Sections 605.254(a) and (c), Occupations  
 35-13 Code, are amended to read as follows:

35-14 (a) A person is entitled to an exemption from the license  
 35-15 requirements established [~~by the board~~] under Section 605.252 if  
 35-16 the person is a resident of this state who[+:

35-17 [~~(1) applies for the exemption not later than the~~  
 35-18 ~~181st day after the date on which the board's initial rules are~~  
 35-19 ~~finally adopted and:~~

35-20 [~~(A) has provided comprehensive orthotic or~~  
 35-21 ~~prosthetic care for at least three years before the date of the~~  
 35-22 ~~application, including practicing orthotics or prosthetics in this~~  
 35-23 ~~state for the year preceding that date; or~~

35-24 [~~(B) has provided comprehensive orthotic and~~  
 35-25 ~~prosthetic care for at least six years, including practicing~~  
 35-26 ~~orthotics and prosthetics in this state for the year preceding the~~  
 35-27 ~~application date; or~~

35-28 [~~(2)~~] presents evidence satisfactory to the  
 35-29 department [~~board~~] that the person possesses unique qualifications  
 35-30 to practice orthotics, prosthetics, or orthotics and prosthetics.

35-31 (c) The department [~~board~~] shall issue a license to a person  
 35-32 who is determined to be eligible for a license under Subsection (a)  
 35-33 [~~or (b)~~]. A person to whom a license is issued under this  
 35-34 subsection is entitled to the same license privileges as if the  
 35-35 person met the educational and vocational requirements of Section  
 35-36 605.252. The license holder is subject to the license renewal  
 35-37 requirements established by the commission [~~board~~], other than the  
 35-38 academic, clinical training, and examination requirements, which  
 35-39 the commission [~~board~~] may not impose as a condition of the person's  
 35-40 license.

35-41 SECTION 1.181. Sections 605.255(a) and (b), Occupations  
 35-42 Code, are amended to read as follows:

35-43 (a) An applicant for a license as an orthotist assistant or  
 35-44 prosthetist assistant must:

35-45 (1) submit an application in the manner and [~~file a~~  
 35-46 ~~written application with the board~~] on a form prescribed [~~provided~~]  
 35-47 by the executive director [~~board~~];

35-48 (2) pay the nonrefundable application fee established  
 35-49 [~~prescribed~~] by the commission by rule [~~board~~]; and

35-50 (3) present evidence satisfactory to the department  
 35-51 [~~board~~] that the applicant has completed an education program,  
 35-52 including courses in the anatomical, biological, and physical  
 35-53 sciences, and a clinical residency as prescribed and adopted by the  
 35-54 commission by rule [~~board~~].

35-55 (b) An assistant licensed under this section may provide  
 35-56 only ancillary patient care services, as defined by the commission  
 35-57 by rule [~~board~~], in the discipline in which the assistant's  
 35-58 supervisor is licensed under this chapter.

35-59 SECTION 1.182. Sections 605.256(a) and (b), Occupations  
 35-60 Code, are amended to read as follows:

35-61 (a) The department [~~board~~] may issue a license or  
 35-62 registration certificate under this chapter only to an individual.

35-63 (b) The department [~~board~~] shall issue a license in  
 35-64 orthotics or prosthetics to an applicant who meets the requirements  
 35-65 provided under this chapter. A license may be granted in either  
 35-66 orthotics or prosthetics, or in both, if the person meets the  
 35-67 requirements established by the department [~~board~~].

35-68 SECTION 1.183. Section 605.257, Occupations Code, is  
 35-69 amended to read as follows:

36-1           Sec. 605.257. TEMPORARY LICENSE.       (a) The department  
36-2 [~~board~~] may issue a temporary license to an individual who:

36-3           (1) has recently become a resident of this state;  
36-4           (2) has applied for a license as an orthotist,  
36-5 prosthetist, or both; and

36-6           (3) has:  
36-7           (A) practiced orthotics regularly since January  
36-8 1, 1996; or

36-9           (B) been licensed by the state in which the  
36-10 person formerly resided if that state has license requirements that  
36-11 are equal to or exceed the requirements of this chapter.

36-12       (b) A temporary license is valid for one year from the date  
36-13 issued. A temporary license may be renewed for not more than one  
36-14 additional year if the applicant presents evidence sufficient to  
36-15 the department [~~board~~] of good cause for renewal.

36-16       SECTION 1.184. Section 605.258(a), Occupations Code, is  
36-17 amended to read as follows:

36-18       (a) The department [~~board~~] may issue a student registration  
36-19 certificate to an individual who is working toward fulfilling the  
36-20 requirements for a license as an orthotist, prosthetist, or  
36-21 prosthetist orthotist and:

36-22           (1) holds either:  
36-23           (A) a bachelor's or graduate degree in orthotics  
36-24 and prosthetics from:

36-25           (i) an education program recognized and  
36-26 accredited by the Commission on Accreditation of Allied Health  
36-27 Education Programs that is offered at an institution of higher  
36-28 education; or

36-29           (ii) a practitioner education program that  
36-30 has education standards that are equivalent to or exceed the  
36-31 standards adopted by the Commission on Accreditation of Allied  
36-32 Health Education Programs; or

36-33           (B) a bachelor's degree in another subject and an  
36-34 orthotic or prosthetic certificate issued by a practitioner  
36-35 education program:

36-36           (i) recognized and accredited by the  
36-37 Commission on Accreditation of Allied Health Education Programs; or

36-38           (ii) that has education standards that are  
36-39 equivalent to or exceed the standards adopted by the Commission on  
36-40 Accreditation of Allied Health Education Programs; or

36-41       (2) is a student who:  
36-42           (A) is currently enrolled in a graduate program  
36-43 in this state in orthotics and prosthetics that:

36-44           (i) is recognized and accredited by the  
36-45 Commission on Accreditation of Allied Health Education Programs;  
36-46 and

36-47           (ii) incorporates a professional clinical  
36-48 residency that meets the requirements of rules adopted under  
36-49 Section 605.252(c); and

36-50           (B) submits to the department [~~board~~] a written  
36-51 certification from the graduate program in which the student is  
36-52 enrolled that the student has successfully completed the academic  
36-53 prerequisites to enter a professional clinical residency.

36-54       SECTION 1.185. Section 605.259(a), Occupations Code, is  
36-55 amended to read as follows:

36-56       (a) The department [~~board~~] may issue a registered orthotic  
36-57 technician or registered prosthetic technician certificate to an  
36-58 applicant who:

36-59           (1) submits an [~~files a written~~] application in the  
36-60 manner and [~~with the board~~] on a form prescribed [~~provided~~] by the  
36-61 executive director [~~board~~];

36-62           (2) pays the nonrefundable application fee; and

36-63           (3) presents evidence satisfactory to the department  
36-64 [~~board~~] that the applicant has completed an education program and  
36-65 laboratory experience as prescribed by the commission by rule  
36-66 [~~board~~].

36-67       SECTION 1.186. Sections 605.260(a), (b), and (c),  
36-68 Occupations Code, are amended to read as follows:

36-69       (a) The commission [~~board~~] by rule shall establish

37-1 requirements for the accreditation and the renewal of an  
 37-2 accreditation of an orthotic or prosthetic facility in which  
 37-3 orthotics or prosthetics are conducted. The department [board] may  
 37-4 issue an accreditation only to an orthotic or prosthetic facility.

37-5 (b) If a person owns more than one facility, the department  
 37-6 [board] may require only one application for the accreditation of  
 37-7 each of the person's facilities. Each orthotic or prosthetic  
 37-8 facility must meet the requirements established by commission rule  
 37-9 [the board].

37-10 (c) An orthotic or prosthetic facility must be under the  
 37-11 on-site direction of an orthotist or prosthetist licensed by the  
 37-12 department [board] in the discipline for which accreditation is  
 37-13 sought.

37-14 SECTION 1.187. Section 605.261, Occupations Code, is  
 37-15 amended to read as follows:

37-16 Sec. 605.261. CONTINUING EDUCATION. (a) The commission  
 37-17 [board] shall:

37-18 (1) adopt rules that require a license holder to  
 37-19 participate in an approved continuing education program to renew a  
 37-20 license issued under this chapter; and

37-21 (2) prepare or approve continuing education programs  
 37-22 for license holders.

37-23 (b) To renew a license under this chapter, an applicant must  
 37-24 submit to the department [board] evidence of satisfactory  
 37-25 completion of the continuing education requirements required by the  
 37-26 commission [board].

37-27 (c) The department [board] shall notify a license holder who  
 37-28 has failed to comply with the [board's] continuing education  
 37-29 requirements of the license holder's failure to comply and that  
 37-30 failure to obtain the required continuing education before the  
 37-31 expiration of three months after the date the notice is given  
 37-32 constitutes grounds for the commission or executive director  
 37-33 [board] to suspend or revoke the license holder's license.

37-34 SECTION 1.188. Section 605.353, Occupations Code, is  
 37-35 amended to read as follows:

37-36 Sec. 605.353. DISCIPLINARY ACTIONS. (a) After notice and  
 37-37 opportunity for a hearing, the commission or executive director  
 37-38 [board] may revoke, suspend, or refuse to renew a license issued  
 37-39 under this chapter on a finding that:

37-40 (1) the license was obtained by fraud,  
 37-41 misrepresentation, or concealment of a material fact;

37-42 (2) the person engaged in fraud or deceit in  
 37-43 connection with services provided by the person;

37-44 (3) the person engaged in unprofessional or unethical  
 37-45 conduct;

37-46 (4) the person engaged in gross negligence or  
 37-47 malpractice; or

37-48 (5) the person violated this chapter or a rule adopted  
 37-49 under this chapter.

37-50 (b) The commission or executive director [board] may  
 37-51 reinstate a license revoked under Subsection (a) after the first  
 37-52 anniversary of the date of the revocation on terms the commission or  
 37-53 executive director [board] determines to be necessary.

37-54 SECTION 1.189. Section 605.354(c), Occupations Code, is  
 37-55 amended to read as follows:

37-56 (c) The attorney general shall bring an action in the name  
 37-57 of the state at the department's [board's] request to collect a  
 37-58 civil penalty under this section.

37-59 SECTION 1.190. Section 605.402(a), Occupations Code, is  
 37-60 amended to read as follows:

37-61 (a) The amount of an [the] administrative penalty imposed  
 37-62 for a violation of this chapter or a rule adopted or order issued  
 37-63 under this chapter may not be less than \$50 or more than \$5,000 for  
 37-64 each violation. Each day a violation continues or occurs is a  
 37-65 separate violation for the purpose of imposing a penalty.

37-66 SECTION 1.191. Section 701.002, Occupations Code, is  
 37-67 amended by amending Subdivisions (1), (2), and (4) and adding  
 37-68 Subdivision (1-a) to read as follows:

37-69 (1) "Advisory board" means the Dietitians Advisory

38-1 Board.

38-2 (1-a) "Commission" [~~"Commissioner"~~] means the Texas  
38-3 Commission of Licensing and Regulation [~~commissioner of state~~  
38-4 ~~health services~~].

38-5 (2) "Department" means the Texas Department of  
38-6 Licensing and Regulation [~~State Health Services~~].

38-7 (4) "Executive director" [~~"Dietitians board"~~] means  
38-8 the executive director of the department [~~Texas State Board of~~  
38-9 ~~Examiners of Dietitians~~].

38-10 SECTION 1.192. The heading to Subchapter B, Chapter 701,  
38-11 Occupations Code, is amended to read as follows:

38-12 SUBCHAPTER B. [~~TEXAS STATE BOARD OF EXAMINERS OF~~] DIETITIANS  
38-13 ADVISORY BOARD

38-14 SECTION 1.193. Section 701.051, Occupations Code, is  
38-15 amended to read as follows:

38-16 Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP.

38-17 (a) The advisory board [~~Texas State Board of Examiners of~~  
38-18 ~~Dietitians~~] consists of nine members appointed by the presiding  
38-19 officer of the commission [~~governor~~] with the approval [~~advice and~~  
38-20 ~~consent~~] of the commission [~~senate~~] as follows:

38-21 (1) six licensed dietitian members, each of whom has  
38-22 been licensed under this chapter for not less than three years  
38-23 before the member's date of appointment; and

38-24 (2) three members who represent the public.

38-25 (b) In appointing dietitian members to the advisory  
38-26 [~~dietitians~~] board, the presiding officer of the commission  
38-27 [~~governor~~] shall attempt to maintain balanced representation among  
38-28 the following primary areas of expertise included in the  
38-29 professional discipline of dietetics:

- 38-30 (1) clinical;  
38-31 (2) educational;  
38-32 (3) management;  
38-33 (4) consultation; and  
38-34 (5) community.

38-35 (c) Appointments to the advisory [~~dietitians~~] board shall  
38-36 be made without regard to the race, color, disability, sex,  
38-37 religion, age, or national origin of the appointee.

38-38 SECTION 1.194. Subchapter B, Chapter 701, Occupations Code,  
38-39 is amended by adding Section 701.0511 to read as follows:

38-40 Sec. 701.0511. DUTIES OF ADVISORY BOARD. The advisory  
38-41 board shall provide advice and recommendations to the department on  
38-42 technical matters relevant to the administration of this chapter.

38-43 SECTION 1.195. Section 701.054, Occupations Code, is  
38-44 amended to read as follows:

38-45 Sec. 701.054. TERMS; VACANCIES. (a) Members of the  
38-46 advisory [~~dietitians~~] board serve staggered six-year terms. The  
38-47 terms of three [~~two~~] members begin on September 1 of each  
38-48 odd-numbered year.

38-49 (b) If a vacancy occurs during a member's term, the  
38-50 presiding officer of the commission, with the commission's  
38-51 approval, shall appoint a replacement who meets the qualifications  
38-52 for the vacant position to serve for the remainder of the term.

38-53 SECTION 1.196. Section 701.057, Occupations Code, is  
38-54 amended to read as follows:

38-55 Sec. 701.057. PRESIDING OFFICER [~~OFFICERS~~]. [~~(a)~~] The  
38-56 presiding officer of the commission [~~governor~~] shall designate a  
38-57 member of the advisory [~~dietitians~~] board as the presiding officer  
38-58 of the advisory board to serve for a term of one year [~~in that~~  
38-59 ~~capacity at the pleasure of the governor~~]. The presiding officer of  
38-60 the advisory board may vote on any matter before the advisory board.

38-61 [~~(b) Not later than the 30th day after the date the governor~~  
38-62 ~~appoints new board members, the dietitians board shall meet to~~  
38-63 ~~elect an assistant presiding officer, who holds office according to~~  
38-64 ~~board rules.~~]

38-65 SECTION 1.197. Section 701.058, Occupations Code, is  
38-66 amended to read as follows:

38-67 Sec. 701.058. MEETINGS. The advisory [~~dietitians~~] board  
38-68 shall meet at the call of the presiding officer of the commission or  
38-69 the executive director [~~hold at least two regular meetings each~~

39-1 ~~year as provided by board rules].~~

39-2 SECTION 1.198. Section 701.151, Occupations Code, is  
39-3 amended to read as follows:

39-4 Sec. 701.151. GENERAL POWERS AND DUTIES [~~OF DIETITIANS~~  
39-5 ~~BOARD~~]. (a) The executive director shall administer and enforce  
39-6 this chapter.

39-7 (b) The department [dietitians board] shall:

39-8 (1) adopt an official seal;

39-9 (2) adopt and publish a code of ethics;

39-10 (3) establish the qualifications and fitness of  
39-11 applicants for licenses, including renewed and reciprocal  
39-12 licenses;

39-13 (4) revoke, suspend, or deny a license, probate a  
39-14 license suspension, or reprimand a license holder for a violation  
39-15 of this chapter, a [~~board~~] rule adopted under this chapter, or the  
39-16 code of ethics; and

39-17 (5) request and receive any necessary assistance from  
39-18 state educational institutions or other state agencies [spend money  
39-19 necessary to properly administer the board's duties; and

39-20 [~~6) establish reasonable and necessary fees to~~  
39-21 ~~administer this chapter].~~

39-22 SECTION 1.199. Subchapter D, Chapter 701, Occupations Code,  
39-23 is amended by adding Section 701.1511 to read as follows:

39-24 Sec. 701.1511. REGISTRY. The department shall prepare a  
39-25 registry of licensed dietitians and provisional licensed  
39-26 dietitians and make the registry available to the public, license  
39-27 holders, and appropriate state agencies.

39-28 SECTION 1.200. Section 701.154, Occupations Code, as  
39-29 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
39-30 2015, is amended to read as follows:

39-31 Sec. 701.154. AMOUNT OF FEES. The commission [(a) After  
39-32 consulting the department, the dietitians board by rule shall set  
39-33 fees in amounts reasonable and necessary to cover the cost of  
39-34 administering this chapter. The fees for issuing or renewing a  
39-35 license must be in amounts designed to allow the department and the  
39-36 dietitians board to recover from the license holders all of the  
39-37 direct and indirect costs to the department and to the dietitians  
39-38 board in administering and enforcing this chapter.

39-39 [(b) ~~The dietitians board~~] may not set a fee that existed on  
39-40 September 1, 1993, in an amount that is less than the amount of that  
39-41 fee on that date.

39-42 SECTION 1.201. Section 701.155, Occupations Code, is  
39-43 amended to read as follows:

39-44 Sec. 701.155. SEAL. (a) The commission [dietitians board]  
39-45 by rule may require a license holder to:

39-46 (1) obtain a seal authorized by the department [board]  
39-47 bearing the license holder's name and the legend "Licensed  
39-48 Dietitian"; and

39-49 (2) affix the seal to formal documentation of  
39-50 nutrition services provided by the license holder, as determined  
39-51 necessary and appropriate by the department [board].

39-52 (b) If the commission [dietitians board] adopts rules under  
39-53 Subsection (a), the rules must authorize a license holder to comply  
39-54 with Subsection (a)(2) by maintaining a facsimile of the license  
39-55 holder's seal on file at the location where services are provided  
39-56 if:

39-57 (1) the services are provided:

39-58 (A) in a facility licensed under the Health and  
39-59 Safety Code;

39-60 (B) on behalf of a local, state, or federal  
39-61 government agency; or

39-62 (C) under other circumstances determined  
39-63 reasonable and necessary by the department [board]; and

39-64 (2) the facsimile is maintained on file at all times  
39-65 during which the services are provided.

39-66 SECTION 1.202. The heading to Subchapter E, Chapter 701,  
39-67 Occupations Code, is amended to read as follows:

SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT

## PROCEDURES

SECTION 1.203. The heading to Section 701.2041, Occupations Code, is amended to read as follows:

Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [SUBPOENAS].

SECTION 1.204. Sections 701.2041(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department [~~dieticians board~~] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [~~board~~] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the department [~~board~~] in a disciplinary action against the holder of a license;

(2) professional dietitian licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the commission [~~board~~] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department [~~dieticians board~~] against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director [~~board~~], and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director [~~board~~] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.205. Section 701.252, Occupations Code, is amended to read as follows:

Sec. 701.252. LICENSE APPLICATION. (a) Each applicant for a dietitian license must submit an [a sworn] application in the manner and on a form prescribed by the executive director accompanied by the application fee.

(b) The commission [dieticians board shall prescribe the application form and may] by rule shall determine the information and documentation required to be submitted as part of an application [establish dates by which applications and fees must be received].

SECTION 1.206. Sections 701.253(c), (e), and (f), Occupations Code, are amended to read as follows:

(c) The department [~~dieticians board~~] shall prepare or approve an examination. An examination prescribed by the department [~~board~~] may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service instead of an examination prepared by the department or the department's designee [~~board~~].

(e) The department [~~dieticians board~~] shall administer an examination to qualified applicants at least twice each calendar year.

(f) The department [~~dieticians board~~] shall waive the examination requirement for an applicant who, at the time of application, is a dietitian registered by the Commission on Dietetic Registration.

SECTION 1.207. Section 701.254, Occupations Code, is amended to read as follows:

Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify for the licensing examination under this chapter, an applicant must:

(1) possess a baccalaureate or postbaccalaureate degree, conferred by a college or university regionally accredited at the time of conferral, with:

(A) a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems

41-1 management; or

41-2 (B) an equivalent major course of study approved  
41-3 by the department [~~dietitians board~~]; and

41-4 (2) have completed an internship or preplanned,  
41-5 documented, professional experience program in dietetics practice  
41-6 of not less than 900 hours under the supervision of a licensed  
41-7 dietitian or a registered dietitian approved by the department  
41-8 [~~board~~].

41-9 SECTION 1.208. Section 701.255(a), Occupations Code, is  
41-10 amended to read as follows:

41-11 (a) Not later than the 45th day after the date a properly  
41-12 submitted and timely application is received and not later than the  
41-13 30th day before the next examination date, the department shall  
41-14 notify an applicant in writing of the receipt and investigation of  
41-15 the applicant's application and any other relevant evidence  
41-16 relating to applicant qualifications established by commission  
41-17 [~~dietitians board~~] rule.

41-18 SECTION 1.209. Sections 701.2575(a) and (c), Occupations  
41-19 Code, are amended to read as follows:

41-20 (a) The department [~~dietitians board~~] shall develop and  
41-21 administer at least twice each calendar year a jurisprudence  
41-22 examination to determine an applicant's knowledge of this chapter,  
41-23 commission [~~board~~] rules under this chapter, and any other  
41-24 applicable laws of this state affecting the applicant's dietetics  
41-25 practice.

41-26 (c) The commission [~~dietitians board~~] shall adopt rules to  
41-27 implement this section, including rules related to the development  
41-28 and administration of the examination, examination fees,  
41-29 guidelines for reexamination, grading the examination, and  
41-30 providing notice of examination results.

41-31 SECTION 1.210. Section 701.258, Occupations Code, is  
41-32 amended to read as follows:

41-33 Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The  
41-34 department [~~dietitians board~~] shall issue a license [~~certificate~~]  
41-35 as a licensed dietitian to a person qualified for a license under  
41-36 this chapter.

41-37 SECTION 1.211. Sections 701.259(a), (b), (c), and (d),  
41-38 Occupations Code, are amended to read as follows:

41-39 (a) The department [~~dietitians board~~] may issue a license to  
41-40 use the title "provisional licensed dietitian" to an applicant who  
41-41 files an application, pays an application fee, and submits evidence  
41-42 of successful completion of the education requirement under Section  
41-43 701.254.

41-44 (b) A provisional licensed dietitian must practice under  
41-45 the supervision and direction of a licensed dietitian. The  
41-46 supervising licensed dietitian must be designated in [~~sign~~]  
41-47 the applicant's initial application for a provisional license.

41-48 (c) The department [~~dietitians board~~] shall issue a license  
41-49 [~~certificate~~] as a provisional licensed dietitian to a person  
41-50 qualified for a provisional license under this chapter.

41-51 (d) A provisional license expires on the first anniversary  
41-52 of the date of issuance and [~~, if the supervising licensed dietitian~~  
41-53 ~~signs the renewal application,~~] may be renewed annually not more  
41-54 than twice [~~by complying with the renewal procedures under Section~~  
41-55 ~~701.301~~].

41-56 SECTION 1.212. Section 701.260, Occupations Code, is  
41-57 amended to read as follows:

41-58 Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an  
41-59 application and payment of an application fee, the department  
41-60 [~~dietitians board~~] may grant a temporary license to an applicant  
41-61 who:

41-62 (1) is licensed in good standing as a dietitian in  
41-63 another state that has licensing requirements that are  
41-64 substantially equivalent to the requirements of this chapter;

41-65 (2) has passed a national or other examination that is  
41-66 recognized by the department [~~board~~] and relates to dietetics; and

41-67 (3) is sponsored by a person licensed by the  
41-68 department [~~board~~] under this chapter with whom the temporary  
41-69 license holder may practice.

42-1 (b) The department [~~dietitians board~~] may waive the  
 42-2 requirement of Subsection (a)(3) if the department [~~board~~]  
 42-3 determines that compliance with that provision is a hardship to an  
 42-4 applicant.

42-5 (c) A temporary license is valid until the date the  
 42-6 department [~~dietitians board~~] approves or denies the temporary  
 42-7 license holder's application for a license. The department [~~board~~]  
 42-8 shall issue a license under this chapter to the holder of a  
 42-9 temporary license if:

42-10 (1) the temporary license holder passes the competency  
 42-11 examination required by Section 701.253;

42-12 (2) the department [~~board~~] verifies that the temporary  
 42-13 license holder meets the academic and experience requirements for a  
 42-14 license under this chapter; and

42-15 (3) the temporary license holder satisfies any other  
 42-16 license requirements under this chapter.

42-17 (d) The department [~~dietitians board~~] must complete the  
 42-18 processing of a temporary license holder's application for a  
 42-19 license not later than the 180th day after the date the department  
 42-20 [~~board~~] issues the temporary license. The department [~~board~~] may  
 42-21 extend this deadline to receive pending examination results.

42-22 SECTION 1.213. Section 701.303, Occupations Code, is  
 42-23 amended to read as follows:

42-24 Sec. 701.303. CONTINUING EDUCATION. (a) The commission  
 42-25 [~~dietitians board~~] by rule shall establish a minimum number of  
 42-26 hours of continuing education required for license renewal under  
 42-27 this chapter.

42-28 (b) The commission or department [~~dietitians board~~] may  
 42-29 assess the continuing education needs of license holders and may  
 42-30 require license holders to attend continuing education courses  
 42-31 specified by the commission or department [~~board~~]. The department  
 42-32 [~~board~~] shall develop a process to evaluate and approve continuing  
 42-33 education courses.

42-34 (c) The commission or department [~~dietitians board~~] shall  
 42-35 identify key factors for a license holder's competent performance  
 42-36 of professional duties. The department [~~board~~] shall adopt a  
 42-37 procedure to assess the license holder's participation in  
 42-38 continuing education programs.

42-39 SECTION 1.214. Section 701.304, Occupations Code, is  
 42-40 amended to read as follows:

42-41 Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The commission  
 42-42 or department [~~dietitians board~~] may refuse to renew the license of  
 42-43 a person who fails to pay an administrative penalty imposed under  
 42-44 Subchapter K, unless enforcement of the penalty is stayed or a court  
 42-45 has ordered that the administrative penalty is not owed.

42-46 SECTION 1.215. Section 701.351, Occupations Code, is  
 42-47 amended to read as follows:

42-48 Sec. 701.351. DISPLAY OF LICENSE [~~CERTIFICATE~~]. (a) A  
 42-49 license holder shall display the person's license [~~certificate~~] in  
 42-50 an appropriate and public manner as prescribed by commission rule.

42-51 (b) A license [~~certificate~~] issued by the department  
 42-52 [~~dietitians board~~] is the property of the department [~~board~~] and  
 42-53 shall be surrendered on demand.

42-54 SECTION 1.216. Section 701.352, Occupations Code, is  
 42-55 amended to read as follows:

42-56 Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder  
 42-57 shall keep the department informed of the license holder's current  
 42-58 address as provided by commission rule.

42-59 SECTION 1.217. Section 701.353(a), Occupations Code, is  
 42-60 amended to read as follows:

42-61 (a) A person may not use a seal authorized by the department  
 42-62 [~~dietitians board~~] unless the person holds a license issued under  
 42-63 this chapter.

42-64 SECTION 1.218. Section 701.401, Occupations Code, is  
 42-65 amended to read as follows:

42-66 Sec. 701.401. GROUNDS FOR DISCIPLINARY ACTION. The  
 42-67 commission or executive director [~~dietitians board~~] shall refuse to  
 42-68 renew a license, revoke or suspend a license, place on probation a  
 42-69 person whose license has been suspended, or reprimand a license

43-1 holder for a violation of this chapter, ~~[or]~~ a rule or code of  
 43-2 ethics adopted under this chapter, or an order of ~~[by]~~ the  
 43-3 commission or executive director ~~[board]~~.

43-4 SECTION 1.219. Section 701.403, Occupations Code, is  
 43-5 amended to read as follows:

43-6 Sec. 701.403. SANCTIONS. The State Office of  
 43-7 Administrative Hearings shall use the schedule of sanctions adopted  
 43-8 by the commission by ~~[dietitians board]~~ rule for a sanction imposed  
 43-9 as the result of a hearing conducted by the office.

43-10 SECTION 1.220. Section 701.502(a), Occupations Code, is  
 43-11 amended to read as follows:

43-12 (a) The amount of an ~~[the]~~ administrative penalty imposed  
 43-13 for a violation of this chapter or a rule adopted or order issued  
 43-14 under this chapter may not be less than \$50 or more than \$5,000 for  
 43-15 each violation. Each day a violation continues or occurs is a  
 43-16 separate violation for the purpose of imposing a penalty.

43-17 SECTION 1.221. Section 701.512, Occupations Code, is  
 43-18 amended to read as follows:

43-19 Sec. 701.512. REFUND. (a) Subject to Subsection (b), the  
 43-20 commission or executive director ~~[dietitians board]~~ may order a  
 43-21 license holder to pay a refund to a consumer as provided in an  
 43-22 agreement resulting from an informal settlement conference instead  
 43-23 of or in addition to imposing an administrative penalty under this  
 43-24 chapter.

43-25 (b) The amount of a refund ordered as provided in an  
 43-26 agreement resulting from an informal settlement conference may not  
 43-27 exceed the amount the consumer paid to the license holder for a  
 43-28 service regulated by this chapter. The commission or executive  
 43-29 director ~~[board]~~ may not require payment of other damages or  
 43-30 estimate harm in a refund order.

43-31 SECTION 1.222. The following provisions of the Occupations  
 43-32 Code, including provisions amended by S.B. 219, Acts of the 84th  
 43-33 Legislature, Regular Session, 2015, are repealed:

- 43-34 (1) Section 203.006;
- 43-35 (2) Section 203.051;
- 43-36 (3) Section 203.053;
- 43-37 (4) Section 203.054;
- 43-38 (5) Section 203.057;
- 43-39 (6) Section 203.058;
- 43-40 (7) Section 203.060;
- 43-41 (8) Subchapter C, Chapter 203;
- 43-42 (9) Section 203.151(b);
- 43-43 (10) Section 203.1515;
- 43-44 (11) Section 203.152(a);
- 43-45 (12) Sections 203.155(a) and (c);
- 43-46 (13) Section 203.156;
- 43-47 (14) Section 203.158;
- 43-48 (15) Section 203.159;
- 43-49 (16) Section 203.160;
- 43-50 (17) Section 203.161;
- 43-51 (18) Subchapter E, Chapter 203;
- 43-52 (19) Section 203.255(b);
- 43-53 (20) Section 203.2556;
- 43-54 (21) Section 203.302;
- 43-55 (22) Section 203.303;
- 43-56 (23) Section 203.405;
- 43-57 (24) Subchapter J, Chapter 203;
- 43-58 (25) Section 203.502(c);
- 43-59 (26) Section 203.505(a);
- 43-60 (27) Section 401.002;
- 43-61 (28) Section 401.101;
- 43-62 (29) Section 401.103;
- 43-63 (30) Section 401.104;
- 43-64 (31) Section 401.106;
- 43-65 (32) Section 401.109;
- 43-66 (33) Section 401.110;
- 43-67 (34) Subchapter D, Chapter 401;
- 43-68 (35) Section 401.201(b);
- 43-69 (36) Sections 401.203(a) and (b);

44-1	(37)	Section 401.204;
44-2	(38)	Section 401.205;
44-3	(39)	Section 401.206;
44-4	(40)	Section 401.207;
44-5	(41)	Section 401.252;
44-6	(42)	Sections 401.253(b), (c), (d), and (e);
44-7	(43)	Sections 401.2535(a), (b), (c), (d), (e), (f),
44-8		and (g);
44-9	(44)	Section 401.254;
44-10	(45)	Section 401.306;
44-11	(46)	Section 401.307(c);
44-12	(47)	Section 401.313;
44-13	(48)	Section 401.315;
44-14	(49)	Sections 401.352(b) and (c);
44-15	(50)	Section 401.353;
44-16	(51)	Section 401.354;
44-17	(52)	Section 401.405;
44-18	(53)	Section 401.451(b);
44-19	(54)	Section 401.452;
44-20	(55)	Section 401.4531;
44-21	(56)	Section 401.454;
44-22	(57)	Section 401.455;
44-23	(58)	Section 401.456;
44-24	(59)	Section 401.457;
44-25	(60)	Section 401.458;
44-26	(61)	Section 401.459;
44-27	(62)	Section 401.460;
44-28	(63)	Section 401.502;
44-29	(64)	Section 401.5022;
44-30	(65)	Section 401.551;
44-31	(66)	Section 401.553;
44-32	(67)	Section 401.554;
44-33	(68)	Section 401.555;
44-34	(69)	Section 401.556;
44-35	(70)	Section 401.557;
44-36	(71)	Section 401.558;
44-37	(72)	Section 401.559;
44-38	(73)	Section 401.560;
44-39	(74)	Section 401.561;
44-40	(75)	Section 402.002;
44-41	(76)	Section 402.052;
44-42	(77)	Section 402.053;
44-43	(78)	Section 402.054;
44-44	(79)	Section 402.056;
44-45	(80)	Section 402.0581;
44-46	(81)	Section 402.059;
44-47	(82)	Section 402.060;
44-48	(83)	Section 402.061;
44-49	(84)	Section 402.102;
44-50	(85)	Section 402.1022;
44-51	(86)	Sections 402.103(a) and (b);
44-52	(87)	Section 402.105;
44-53	(88)	Section 402.106;
44-54	(89)	Section 402.151;
44-55	(90)	Section 402.1511;
44-56	(91)	Section 402.153;
44-57	(92)	Sections 402.154(a), (b), (c), (d), (e), (f), and
44-58		(g);
44-59	(93)	Section 402.205(d);
44-60	(94)	Section 402.206;
44-61	(95)	Sections 402.209(b) and (g);
44-62	(96)	Section 402.257(b);
44-63	(97)	Sections 402.301(b), (c), (d), and (e);
44-64	(98)	Section 402.303(f);
44-65	(99)	Section 402.354;
44-66	(100)	Section 402.452;
44-67	(101)	Section 402.502;
44-68	(102)	Section 402.503;
44-69	(103)	Section 402.504;

45-1	(104)	Section 402.505;
45-2	(105)	Section 402.506;
45-3	(106)	Sections 402.551(a) and (c);
45-4	(107)	Section 402.552;
45-5	(108)	Section 402.5522;
45-6	(109)	Section 402.553(b);
45-7	(110)	Section 403.002;
45-8	(111)	Section 403.053;
45-9	(112)	Section 403.109;
45-10	(113)	Section 403.201;
45-11	(114)	Section 403.205;
45-12	(115)	Section 403.206;
45-13	(116)	Section 403.208;
45-14	(117)	Section 403.210;
45-15	(118)	Section 403.211;
45-16	(119)	Section 403.252;
45-17	(120)	Section 451.051(a);
45-18	(121)	Section 451.0511;
45-19	(122)	Section 451.0512;
45-20	(123)	Section 451.0513;
45-21	(124)	Section 451.052;
45-22	(125)	Section 451.054;
45-23	(126)	Section 451.057;
45-24	(127)	Sections 451.101(b) and (c);
45-25	(128)	Section 451.1015;
45-26	(129)	Section 451.1016;
45-27	(130)	Section 451.102;
45-28	(131)	Section 451.103;
45-29	(132)	Section 451.1035;
45-30	(133)	Section 451.104;
45-31	(134)	Section 451.105;
45-32	(135)	Section 451.106;
45-33	(136)	Section 451.108;
45-34	(137)	Section 451.109;
45-35	(138)	Sections 451.110(a), (b), (c), (d), (e), (f),
45-36		and (g);
45-37	(139)	Section 451.155;
45-38	(140)	Section 451.201(b);
45-39	(141)	Section 451.202;
45-40	(142)	Section 451.203;
45-41	(143)	Section 451.204;
45-42	(144)	Section 451.2512;
45-43	(145)	Section 451.252;
45-44	(146)	Section 451.253;
45-45	(147)	Section 451.254;
45-46	(148)	Section 451.255;
45-47	(149)	Sections 451.351(a), (b), (e), (f), (g), (h),
45-48		(i), (j), (k), and (l);
45-49	(150)	Section 451.352;
45-50	(151)	Section 605.003;
45-51	(152)	Section 605.051;
45-52	(153)	Section 605.053;
45-53	(154)	Section 605.054;
45-54	(155)	Section 605.057;
45-55	(156)	Section 605.058;
45-56	(157)	Section 605.059(a);
45-57	(158)	Section 605.060;
45-58	(159)	Section 605.061;
45-59	(160)	Subchapter C, Chapter 605;
45-60	(161)	Section 605.152;
45-61	(162)	Section 605.153;
45-62	(163)	Section 605.154;
45-63	(164)	Section 605.201;
45-64	(165)	Section 605.202;
45-65	(166)	Sections 605.2021(a), (b), (c), (d), (e), (f),
45-66		and (g);
45-67	(167)	Section 605.203;
45-68	(168)	Section 605.253;
45-69	(169)	Section 605.254(b);

- 46-1 (170) Section 605.255(c);
- 46-2 (171) Section 605.259(b);
- 46-3 (172) Section 605.3535;
- 46-4 (173) Section 605.355;
- 46-5 (174) Section 605.401;
- 46-6 (175) Section 605.403;
- 46-7 (176) Section 605.404;
- 46-8 (177) Section 605.405;
- 46-9 (178) Section 605.406;
- 46-10 (179) Section 605.407;
- 46-11 (180) Section 605.408;
- 46-12 (181) Section 605.409;
- 46-13 (182) Section 605.410;
- 46-14 (183) Section 605.411;
- 46-15 (184) Section 701.003;
- 46-16 (185) Section 701.052;
- 46-17 (186) Section 701.053;
- 46-18 (187) Section 701.055;
- 46-19 (188) Section 701.056;
- 46-20 (189) Section 701.059;
- 46-21 (190) Subchapter C, Chapter 701;
- 46-22 (191) Section 701.152;
- 46-23 (192) Section 701.153;
- 46-24 (193) Section 701.1535;
- 46-25 (194) Section 701.156;
- 46-26 (195) Section 701.157;
- 46-27 (196) Section 701.159;
- 46-28 (197) Section 701.160;
- 46-29 (198) Section 701.161;
- 46-30 (199) Section 701.201;
- 46-31 (200) Section 701.202;
- 46-32 (201) Section 701.203;
- 46-33 (202) Section 701.204;
- 46-34 (203) Sections 701.2041(a), (b), (c), (d), (e), (f),
- 46-35 and (g);
- 46-36 (204) Section 701.205;
- 46-37 (205) Section 701.206;
- 46-38 (206) Section 701.256;
- 46-39 (207) Section 701.261;
- 46-40 (208) Sections 701.301(b), (c), (d), (e), and (f);
- 46-41 (209) Section 701.302;
- 46-42 (210) Section 701.402;
- 46-43 (211) Section 701.404;
- 46-44 (212) Section 701.405;
- 46-45 (213) Section 701.406;
- 46-46 (214) Section 701.407;
- 46-47 (215) Section 701.408;
- 46-48 (216) Section 701.452;
- 46-49 (217) Section 701.453;
- 46-50 (218) Section 701.501;
- 46-51 (219) Section 701.502(c);
- 46-52 (220) Section 701.503;
- 46-53 (221) Section 701.504;
- 46-54 (222) Section 701.505;
- 46-55 (223) Section 701.506;
- 46-56 (224) Section 701.507;
- 46-57 (225) Section 701.508;
- 46-58 (226) Section 701.509;
- 46-59 (227) Section 701.510; and
- 46-60 (228) Section 701.511.

PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

SECTION 1.223. Sections 106.115(a), (b-1), and (b-3), Alcoholic Beverage Code, are amended to read as follows:

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation [~~State Health Services~~] under this section or a drug and alcohol driving

47-1 awareness program approved by the Texas Education Agency. On  
 47-2 conviction of a minor of an offense under one or more of those  
 47-3 sections, the court, in addition to assessing a fine as provided by  
 47-4 those sections, shall require a defendant who has not been  
 47-5 previously convicted of an offense under one of those sections to  
 47-6 attend an alcohol awareness program or a drug and alcohol driving  
 47-7 awareness program described by this subsection. If the defendant  
 47-8 has been previously convicted once or more of an offense under one  
 47-9 or more of those sections, the court may require the defendant to  
 47-10 attend an alcohol awareness program or a drug and alcohol driving  
 47-11 awareness program described by this subsection. If the defendant  
 47-12 is younger than 18 years of age, the court may require the parent or  
 47-13 guardian of the defendant to attend the program with the defendant.  
 47-14 The Texas Department of Licensing and Regulation or Texas  
 47-15 Commission of Licensing and Regulation, as appropriate [~~State~~  
 47-16 ~~Health Services~~]:

47-17 (1) is responsible for the administration of the  
 47-18 certification of approved alcohol awareness programs;

47-19 (2) may charge a nonrefundable application fee for:

47-20 (A) initial certification of the approval; or

47-21 (B) renewal of the certification;

47-22 (3) shall adopt rules regarding alcohol awareness  
 47-23 programs approved under this section; and

47-24 (4) shall monitor, coordinate, and provide training to  
 47-25 a person who provides an alcohol awareness program.

47-26 (b-1) If the defendant resides in a county with a population  
 47-27 of 75,000 or less and access to an alcohol awareness program is not  
 47-28 readily available in the county, the court may allow the defendant  
 47-29 to take an online alcohol awareness program if the Texas Department  
 47-30 of Licensing and Regulation [~~State Health Services~~] approves online  
 47-31 courses or require the defendant to perform not less than eight  
 47-32 hours of community service related to alcohol abuse prevention or  
 47-33 treatment and approved by the Texas Department of Licensing and  
 47-34 Regulation [~~State Health Services~~] under Subsection (b-3) instead  
 47-35 of attending the alcohol awareness program. Community service  
 47-36 ordered under this subsection is in addition to community service  
 47-37 ordered under Section 106.071(d).

47-38 (b-3) The Texas Department of Licensing and Regulation  
 47-39 [~~State Health Services~~] shall create a list of community services  
 47-40 related to alcohol abuse prevention or treatment in each county in  
 47-41 the state to which a judge may sentence a defendant under Subsection  
 47-42 (b-1).

47-43 SECTION 1.224. Sections 13(h) and (j), Article 42.12, Code  
 47-44 of Criminal Procedure, are amended to read as follows:

47-45 (h) If a person convicted of an offense under Sections  
 47-46 49.04-49.08, Penal Code, is placed on community supervision, the  
 47-47 judge shall require, as a condition of the community supervision,  
 47-48 that the defendant attend and successfully complete before the  
 47-49 181st day after the day community supervision is granted an  
 47-50 educational program jointly approved by the Texas Department of  
 47-51 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~],  
 47-52 the Department of Public Safety, the Traffic Safety Section of the  
 47-53 Texas Department of Transportation, and the community justice  
 47-54 assistance division of the Texas Department of Criminal Justice  
 47-55 designed to rehabilitate persons who have driven while intoxicated.  
 47-56 The Texas Department of Licensing and Regulation [~~Commission on~~  
 47-57 ~~Alcohol and Drug Abuse~~] shall publish the jointly approved rules  
 47-58 and shall monitor, coordinate, and provide training to persons  
 47-59 providing the educational programs. The Texas Department of  
 47-60 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] is  
 47-61 responsible for the administration of the certification of approved  
 47-62 educational programs and may charge a nonrefundable application fee  
 47-63 for the initial certification of approval and for renewal of a  
 47-64 certificate. The judge may waive the educational program  
 47-65 requirement or may grant an extension of time to successfully  
 47-66 complete the program that expires not later than one year after the  
 47-67 beginning date of the person's community supervision, however, if  
 47-68 the defendant by a motion in writing shows good cause. In  
 47-69 determining good cause, the judge may consider but is not limited

48-1 to: the defendant's school and work schedule, the defendant's  
48-2 health, the distance that the defendant must travel to attend an  
48-3 educational program, and the fact that the defendant resides out of  
48-4 state, has no valid driver's license, or does not have access to  
48-5 transportation. The judge shall set out the finding of good cause  
48-6 for waiver in the judgment. If a defendant is required, as a  
48-7 condition of community supervision, to attend an educational  
48-8 program or if the court waives the educational program requirement,  
48-9 the court clerk shall immediately report that fact to the  
48-10 Department of Public Safety, on a form prescribed by the  
48-11 department, for inclusion in the person's driving record. If the  
48-12 court grants an extension of time in which the person may complete  
48-13 the program, the court clerk shall immediately report that fact to  
48-14 the Department of Public Safety on a form prescribed by the  
48-15 department. The report must include the beginning date of the  
48-16 person's community supervision. Upon the person's successful  
48-17 completion of the educational program, the person's instructor  
48-18 shall give notice to the Department of Public Safety for inclusion  
48-19 in the person's driving record and to the community supervision and  
48-20 corrections department. The community supervision and corrections  
48-21 department shall then forward the notice to the court clerk for  
48-22 filing. If the Department of Public Safety does not receive notice  
48-23 that a defendant required to complete an educational program has  
48-24 successfully completed the program within the period required by  
48-25 this section, as shown on department records, the department shall  
48-26 revoke the defendant's driver's license, permit, or privilege or  
48-27 prohibit the person from obtaining a license or permit, as provided  
48-28 by Sections 521.344(e) and (f), Transportation Code. The  
48-29 Department of Public Safety may not reinstate a license suspended  
48-30 under this subsection unless the person whose license was suspended  
48-31 makes application to the department for reinstatement of the  
48-32 person's license and pays to the department a reinstatement fee of  
48-33 \$100. The Department of Public Safety shall remit all fees  
48-34 collected under this subsection to the comptroller for deposit in  
48-35 the general revenue fund. This subsection does not apply to a  
48-36 defendant if a jury recommends community supervision for the  
48-37 defendant and also recommends that the defendant's driver's license  
48-38 not be suspended.

48-39 (j) The judge shall require a defendant who is punished  
48-40 under Section 49.09, Penal Code, as a condition of community  
48-41 supervision, to attend and successfully complete an educational  
48-42 program for repeat offenders approved by the Texas Department of  
48-43 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~].  
48-44 The Texas Commission of Licensing and Regulation [~~on Alcohol and~~  
48-45 ~~Drug Abuse~~] shall adopt rules and shall monitor, coordinate, and  
48-46 provide training to persons providing the educational programs.  
48-47 The Texas Department of Licensing and Regulation [~~Commission on~~  
48-48 ~~Alcohol and Drug Abuse~~] is responsible for the administration of  
48-49 the certification of approved educational programs and may charge a  
48-50 nonrefundable application fee for initial certification of  
48-51 approval or for renewal of the certification. The judge may waive  
48-52 the educational program requirement only if the defendant by a  
48-53 motion in writing shows good cause. In determining good cause, the  
48-54 judge may consider the defendant's school and work schedule, the  
48-55 defendant's health, the distance that the defendant must travel to  
48-56 attend an educational program, and whether the defendant resides  
48-57 out of state or does not have access to transportation. The judge  
48-58 shall set out the finding of good cause in the judgment. If a  
48-59 defendant is required, as a condition of community supervision, to  
48-60 attend an educational program, the court clerk shall immediately  
48-61 report that fact to the Department of Public Safety, on a form  
48-62 prescribed by the department, for inclusion in the defendant's  
48-63 driving record. The report must include the beginning date of the  
48-64 defendant's community supervision. On the defendant's successful  
48-65 completion of the educational program for repeat offenders, the  
48-66 defendant's instructor shall give notice to the Department of  
48-67 Public Safety for inclusion in the defendant's driving record and  
48-68 to the community supervision and corrections department. The  
48-69 community supervision and corrections department shall then

49-1 forward the notice to the court clerk for filing. If the Department  
 49-2 of Public Safety does not receive notice that a defendant required  
 49-3 to complete an educational program has successfully completed the  
 49-4 program for repeat offenders within the period required by the  
 49-5 judge, as shown on department records, the department shall revoke  
 49-6 the defendant's driver's license, permit, or privilege or prohibit  
 49-7 the defendant from obtaining a license or permit, as provided by  
 49-8 Sections 521.344(e) and (f), Transportation Code.

49-9 SECTION 1.225. Section 401.501, Health and Safety Code, as  
 49-10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 49-11 2015, is amended by amending Subdivision (1) and adding  
 49-12 Subdivisions (1-a) and (2) to read as follows:

49-13 (1) "Commission" means the Texas Commission of  
 49-14 Licensing and Regulation.

49-15 (1-a) "Department" means the Texas Department of  
 49-16 Licensing and Regulation [State Health Services].

49-17 (2) "Executive director" means the executive director  
 49-18 of the department.

49-19 SECTION 1.226. Subchapter M, Chapter 401, Health and Safety  
 49-20 Code, is amended by adding Section 401.5011 to read as follows:

49-21 Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive  
 49-22 director shall administer and enforce this chapter.

49-23 SECTION 1.227. Section 401.502, Health and Safety Code, is  
 49-24 amended to read as follows:

49-25 Sec. 401.502. EXAMINATION. The commission [~~executive~~  
 49-26 ~~commissioner~~] may adopt rules to govern the development and  
 49-27 administration of an examination for an applicant under this  
 49-28 subchapter.

49-29 SECTION 1.228. Section 401.503, Health and Safety Code, is  
 49-30 amended to read as follows:

49-31 Sec. 401.503. APPLICATION PROCESS. (a) An application for  
 49-32 a certificate or license under this subchapter must be submitted in  
 49-33 the manner and [made] on a form prescribed [and provided] by the  
 49-34 executive director [department].

49-35 (b) The application must require an applicant to provide  
 49-36 sworn statements relating to the applicant's education and to  
 49-37 provide other information required by the commission [~~department~~].

49-38 SECTION 1.229. Section 401.505(a), Health and Safety Code,  
 49-39 is amended to read as follows:

49-40 (a) An applicant for a laser hair removal professional  
 49-41 certificate must:

49-42 (1) be certified by a recognized certifying agency,  
 49-43 including the Society for Clinical and Medical Hair Removal or  
 49-44 another certification entity approved by the department;

49-45 (2) meet the requirements for a senior laser hair  
 49-46 removal technician certificate under Section 401.506; and

49-47 (3) pass an examination required [~~administered~~] by the  
 49-48 department.

49-49 SECTION 1.230. The heading to Section 401.512, Health and  
 49-50 Safety Code, is amended to read as follows:

49-51 Sec. 401.512. TERM [RENEWAL] OF CERTIFICATE OR LICENSE.

49-52 SECTION 1.231. Section 401.512(a), Health and Safety Code,  
 49-53 is amended to read as follows:

49-54 (a) A certificate or license expires on the second  
 49-55 anniversary of the date of issuance and may be renewed.

49-56 SECTION 1.232. Section 401.515(b), Health and Safety Code,  
 49-57 is amended to read as follows:

49-58 (b) The commission [~~executive commissioner~~] shall adopt  
 49-59 rules relating to the customer notice.

49-60 SECTION 1.233. Sections 401.516(a) and (b), Health and  
 49-61 Safety Code, are amended to read as follows:

49-62 (a) A laser hair removal facility shall post a warning sign  
 49-63 as prescribed by the commission [~~department~~] in a conspicuous  
 49-64 location readily visible to a person entering the facility. The  
 49-65 sign must provide a toll-free telephone number and e-mail address  
 49-66 for the department and inform the customer that the customer may  
 49-67 contact [call] the department.

49-68 (b) The commission [~~executive commissioner~~] shall adopt  
 49-69 rules specifying the size, content, and design of the sign, with

50-1 wording listing the potential dangers involved.

50-2 SECTION 1.234. Section 401.518(a), Health and Safety Code,  
50-3 is amended to read as follows:

50-4 (a) A laser hair removal facility operator is responsible  
50-5 for maintaining the laser hair removal facility's compliance with  
50-6 the requirements of this subchapter and commission [~~department~~]  
50-7 rules relating to laser and pulsed light devices.

50-8 SECTION 1.235. Section 401.519(b), Health and Safety Code,  
50-9 is amended to read as follows:

50-10 (b) Under the rules of the commission [~~department~~], a laser  
50-11 hair removal facility must document with the department the  
50-12 facility's contractual relationship with the consulting physician.

50-13 SECTION 1.236. Section 401.521(b), Health and Safety Code,  
50-14 is amended to read as follows:

50-15 (b) A person who violates Subsection (a) is practicing  
50-16 medicine in violation of Subtitle B, Title 3, Occupations Code, and  
50-17 is subject to the penalties under that subtitle and Subchapter F,  
50-18 Chapter 51, Occupations Code [~~under Section 401.522~~].

50-19 SECTION 1.237. The heading to Section 401.522, Health and  
50-20 Safety Code, is amended to read as follows:

50-21 Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY  
50-22 [~~ENFORCEMENT; PENALTIES~~].

50-23 SECTION 1.238. Section 401.522(a), Health and Safety Code,  
50-24 is amended to read as follows:

50-25 (a) The amount of [~~department may impose~~] an administrative  
50-26 penalty imposed for a violation of this subchapter or a rule adopted  
50-27 or order issued [~~on a person who violates this subchapter or a rule~~  
50-28 ~~adopted~~] under this subchapter [~~. The amount of the penalty~~] may  
50-29 not exceed \$5,000 for each violation.

50-30 SECTION 1.239. Section 455.001, Occupations Code, is  
50-31 amended by amending Subdivisions (1) and (2) and adding Subdivision  
50-32 (1-a) to read as follows:

50-33 (1) "Commission" means the Texas Commission of  
50-34 Licensing and Regulation.

50-35 (1-a) "Department" means the Texas Department of  
50-36 Licensing and Regulation [~~State Health Services~~].

50-37 (2) "Executive director" [commissioner] means the  
50-38 executive director [commissioner] of the department [~~Health and~~  
50-39 ~~Human Services Commission~~].

50-40 SECTION 1.240. The heading to Subchapter B, Chapter 455,  
50-41 Occupations Code, is amended to read as follows:

50-42 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER~~]

50-43 SECTION 1.241. Section 455.053, Occupations Code, is  
50-44 amended to read as follows:

50-45 Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules  
50-46 adopted under this chapter relating to a massage school must  
50-47 contain minimum standards for:

50-48 (1) the issuance, denial, renewal, suspension,  
50-49 revocation, or probation of a license under this chapter;

50-50 (2) the qualifications of professional personnel;

50-51 (3) the supervision of professional personnel;

50-52 (4) the equipment essential to the education, health,  
50-53 and safety of students, massage school personnel, and the public;

50-54 (5) the sanitary and hygienic conditions of a massage  
50-55 school;

50-56 (6) the provision of massage therapy or other massage  
50-57 services by a massage school or student;

50-58 (7) the maximum number of hours a student may  
50-59 accumulate in a massage school's internship program before the  
50-60 student is required to be licensed under this chapter;

50-61 (8) the educational and clinical records kept by a  
50-62 massage school;

50-63 (9) the organizational structure of a massage school,  
50-64 including the lines of authority and the delegation of  
50-65 responsibility;

50-66 (10) fire prevention and safety in a massage school;

50-67 (11) the massage school's curriculum and educational  
50-68 material;

50-69 (12) massage school inspections; and

51-1 (13) any other aspect of the operation of a massage  
 51-2 school that the commission [~~executive commissioner~~] considers  
 51-3 necessary to protect students, massage school personnel, or the  
 51-4 public.

51-5 SECTION 1.242. The heading to Subchapter C, Chapter 455,  
 51-6 Occupations Code, is amended to read as follows:

51-7 SUBCHAPTER C. POWERS AND DUTIES [~~OF DEPARTMENT~~]

51-8 SECTION 1.243. Section 455.101, Occupations Code, is  
 51-9 amended to read as follows:

51-10 Sec. 455.101. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

51-11 (a) The executive director [~~department~~] shall [+  
 51-12 [~~(1)~~] administer and enforce this chapter.

51-13 (b) The department shall:

51-14 (1) [+  
 51-15 [~~(2)~~]

51-16 investigate a person who may be engaging in a  
 51-17 practice that violates this chapter;

51-18 (2) [~~(3)~~] regulate the number and content of school  
 51-19 hours provided by a massage school or a massage therapy instructor;  
 51-20 and

51-21 (3) [~~(4)~~] prepare and administer a state examination  
 51-22 under this chapter.

51-23 SECTION 1.244. Section 455.103, Occupations Code, as  
 51-24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 51-25 2015, is amended to read as follows:

51-26 Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING  
 51-27 MASSAGE SCHOOLS. (a) The commission [~~department~~] may enter into a  
 51-28 memorandum of understanding with the Texas Education Agency to  
 51-29 regulate massage schools.

51-30 (b) A memorandum must:

51-31 (1) be adopted by the commission [~~executive  
 51-32 commissioner~~] by rule; and

51-33 (2) limit the total amount of the fees charged by the  
 51-34 department and the Texas Education Agency for licensing a massage  
 51-35 school to an amount equal to the amount of the fees the department  
 51-36 would charge for licensing the massage school in the absence of the  
 51-37 memorandum.

51-38 SECTION 1.245. Section 455.151(d), Occupations Code, as  
 51-39 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 51-40 2015, is amended to read as follows:

51-41 (d) The department may issue one or more types of licenses  
 51-42 not otherwise provided for by this chapter that authorize the  
 51-43 license holder to perform a service described by Subsection (c).  
 51-44 The commission [~~executive commissioner~~] may adopt rules governing a  
 51-45 license issued under this subsection.

51-46 SECTION 1.246. Section 455.153, Occupations Code, as  
 51-47 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 51-48 2015, is amended to read as follows:

51-49 Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a  
 51-50 license under this chapter must:

51-51 (1) submit an application in the manner and on a form  
 51-52 prescribed [~~provided~~] by the executive director [~~department~~]; and

51-53 (2) include with the application the application fee  
 51-54 set by the commission [~~executive commissioner~~] by rule.

51-55 SECTION 1.247. Sections 455.1572(c) and (e), Occupations  
 51-56 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 51-57 Session, 2015, are amended to read as follows:

51-58 (c) A provisional license is valid until the date the  
 51-59 department approves or denies the provisional license holder's  
 51-60 application for licensing. The department shall issue a license  
 51-61 under this chapter to the provisionally licensed person if the  
 51-62 person:

51-63 (1) is eligible for a license under Section 51.404  
 51-64 [~~455.1571~~]; or

51-65 (2) passes the part of the examination under Section  
 51-66 455.101 that relates to the applicant's knowledge and understanding  
 51-67 of the laws and rules relating to the practice of massage therapy in  
 51-68 this state and:

51-69 (A) the department verifies that the person meets  
 the academic and experience requirements for licensing under this

52-1 chapter; and

52-2 (B) the person satisfies any other licensing  
52-3 requirements under this chapter.

52-4 (e) The commission [~~executive commissioner~~] by rule may  
52-5 establish a fee for a provisional license.

52-6 SECTION 1.248. The heading to Section 455.160, Occupations  
52-7 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
52-8 Session, 2015, is amended to read as follows:

52-9 Sec. 455.160. LICENSE TERM AND RENEWAL.

52-10 SECTION 1.249. Section 455.160(a), Occupations Code, as  
52-11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
52-12 2015, is amended to read as follows:

52-13 (a) A license issued under this chapter is valid for two  
52-14 years. A license holder must renew the license biennially. [~~The~~  
52-15 ~~license expires unless the license holder submits an application~~  
52-16 ~~for renewal accompanied by the renewal fee prescribed by the~~  
52-17 ~~executive commissioner by rule or by the late fee prescribed by this~~  
52-18 ~~section.~~]

52-19 SECTION 1.250. Sections 455.203(a) and (b), Occupations  
52-20 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
52-21 Session, 2015, are amended to read as follows:

52-22 (a) A massage school must meet the minimum standards of  
52-23 operation established by commission [~~department~~] rule.

52-24 (b) An instructor must meet the minimum requirements  
52-25 established by commission [~~department~~] rule.

52-26 SECTION 1.251. Section 455.251, Occupations Code, as  
52-27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
52-28 2015, is amended to read as follows:

52-29 Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY  
52-30 ACTION. (a) The commission or executive director [~~department~~] may  
52-31 refuse to issue a license to a person and shall suspend, revoke, or  
52-32 refuse to renew the license of a person or shall reprimand a person  
52-33 licensed under this chapter if the person:

52-34 (1) obtains a license by fraud, misrepresentation, or  
52-35 concealment of material facts;

52-36 (2) sells, barter, or offers to sell or barter a  
52-37 license;

52-38 (3) violates a rule adopted by the commission  
52-39 [~~executive commissioner~~] under this chapter;

52-40 (4) engages in unprofessional conduct as defined by  
52-41 commission [~~department~~] rule that endangers or is likely to  
52-42 endanger the health, welfare, or safety of the public;

52-43 (5) violates an order or ordinance adopted by a  
52-44 political subdivision under Chapter 243, Local Government Code; or

52-45 (6) violates this chapter.

52-46 (b) The commission or executive director [~~department~~] shall  
52-47 revoke the license of a person licensed as a massage therapist or  
52-48 massage therapy instructor if:

52-49 (1) the person is convicted of, enters a plea of nolo  
52-50 contendere or guilty to, or receives deferred adjudication for an  
52-51 offense involving prostitution or another sexual offense; or

52-52 (2) the commission or executive director [~~department~~]  
52-53 determines the person has practiced or administered massage therapy  
52-54 at or for a sexually oriented business.

52-55 (c) The commission or executive director [~~department~~] shall  
52-56 revoke the license of a person licensed as a massage school or  
52-57 massage establishment if the commission or executive director  
52-58 [~~department~~] determines that:

52-59 (1) the school or establishment is a sexually oriented  
52-60 business; or

52-61 (2) an offense involving prostitution or another  
52-62 sexual offense that resulted in a conviction for the offense, a plea  
52-63 of nolo contendere or guilty to the offense, or a grant of deferred  
52-64 adjudication for the offense occurred on the premises of the school  
52-65 or establishment.

52-66 SECTION 1.252. The heading to Section 455.302, Occupations  
52-67 Code, is amended to read as follows:

52-68 Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

52-69 SECTION 1.253. Section 455.302(a), Occupations Code, is

53-1 amended to read as follows:

53-2 (a) The amount of an administrative penalty imposed for a  
 53-3 violation of this chapter or a rule adopted or order issued under  
 53-4 this chapter may not exceed \$1,000 for each violation. Each day a  
 53-5 violation continues or occurs is a separate violation for purposes  
 53-6 of imposing a penalty.

53-7 SECTION 1.254. Section 1952.001, Occupations Code, as  
 53-8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 53-9 2015, is amended by adding Subdivision (2-a) and amending  
 53-10 Subdivisions (3) and (4) to read as follows:

53-11 (2-a) "Commission" means the Texas Commission of  
 53-12 Licensing and Regulation.

53-13 (3) "Department" means the Texas Department of  
 53-14 Licensing and Regulation [~~State Health Services~~].

53-15 (4) "Executive director [~~commissioner~~]" means the  
 53-16 executive director [~~commissioner~~] of the department [~~Health and~~  
 53-17 ~~Human Services Commission~~].

53-18 SECTION 1.255. The heading to Subchapter B, Chapter 1952,  
 53-19 Occupations Code, as amended by S.B. 219, Acts of the 84th  
 53-20 Legislature, Regular Session, 2015, is amended to read as follows:

53-21 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~  
 53-22 ~~DEPARTMENT~~]

53-23 SECTION 1.256. Section 1952.051, Occupations Code, as  
 53-24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 53-25 2015, is amended to read as follows:

53-26 Sec. 1952.051. GENERAL POWERS AND DUTIES [~~RULES~~]. (a) The  
 53-27 executive director shall administer and enforce this chapter.

53-28 (b) The commission [~~executive commissioner~~] by rule shall [~~+~~  
 53-29 [~~1~~]] adopt standards and education requirements  
 53-30 consistent with those established under Chapter 654, Government  
 53-31 Code, for the registration of:

53-32 (1) [~~A~~] code enforcement officers; and

53-33 (2) [~~B~~] code enforcement officers in training [~~+~~ and

53-34 [~~2~~] prescribe application forms for original and  
 53-35 renewal certificates of registration].

53-36 SECTION 1.257. Section 1952.053(b), Occupations Code, as  
 53-37 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 53-38 2015, is amended to read as follows:

53-39 (b) The register must include:

53-40 (1) the name, residence, date of birth, and social  
 53-41 security number of the applicant;

53-42 (2) the name and address of the employer or business of  
 53-43 the applicant;

53-44 (3) the date of the application;

53-45 (4) the education and experience qualifications of the  
 53-46 applicant;

53-47 (5) the action taken by the department regarding the  
 53-48 application and the date of the action;

53-49 (6) the serial number of any certificate of  
 53-50 registration issued to the applicant; and

53-51 (7) any other information required by commission  
 53-52 [~~department~~] rule.

53-53 SECTION 1.258. Subchapter B, Chapter 1952, Occupations  
 53-54 Code, is amended by adding Section 1952.055 to read as follows:

53-55 Sec. 1952.055. ADVISORY COMMITTEE. The department may  
 53-56 establish an advisory committee to provide advice and  
 53-57 recommendations to the department on technical matters relevant to  
 53-58 the administration of this chapter.

53-59 SECTION 1.259. Section 1952.102, Occupations Code, as  
 53-60 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 53-61 2015, is amended to read as follows:

53-62 Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT  
 53-63 OFFICER. To be eligible to receive a certificate of registration as  
 53-64 a code enforcement officer, a person must:

53-65 (1) submit an application in the manner and on the form  
 53-66 prescribed by the executive director;

53-67 (2) have at least one year of full-time experience in  
 53-68 the field of code enforcement;

53-69 (3) [~~2~~] pass the examination required [~~conducted~~]

54-1 by the department [~~or the department's designee~~];  
 54-2 (4) [~~(3)~~] pay the application, examination, and  
 54-3 registration fees; and  
 54-4 (5) [~~(4)~~] meet any other requirements prescribed by  
 54-5 this chapter or by commission [~~department~~] rule.

54-6 SECTION 1.260. Section 1952.103(a), Occupations Code, is  
 54-7 amended to read as follows:

54-8 (a) An applicant for a certificate of registration under  
 54-9 this chapter who has less than one year of full-time experience in  
 54-10 code enforcement is entitled to receive a certificate of  
 54-11 registration as a code enforcement officer in training on:

54-12 (1) passing the examination described by Section  
 54-13 1952.102(3) [~~1952.102(2)~~]; [~~and~~]

54-14 (2) paying the required fees; and

54-15 (3) meeting any other requirement prescribed by this  
 54-16 chapter or by commission rule.

54-17 SECTION 1.261. The heading to Section 1952.105, Occupations  
 54-18 Code, is amended to read as follows:

54-19 Sec. 1952.105. TERM [~~RENEWAL OR REINSTATEMENT~~] OF  
 54-20 CERTIFICATE; RENEWAL.

54-21 SECTION 1.262. Section 1952.105(a), Occupations Code, as  
 54-22 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 54-23 2015, is amended to read as follows:

54-24 (a) A certificate of registration issued under this chapter  
 54-25 expires on the second anniversary of the date of issuance and may be  
 54-26 renewed biennially on payment of the required renewal fee and on  
 54-27 completion of the continuing education requirements prescribed by  
 54-28 commission [~~department~~] rule.

54-29 SECTION 1.263. Section 1952.1051, Occupations Code, as  
 54-30 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 54-31 2015, is amended to read as follows:

54-32 Sec. 1952.1051. CONTINUING EDUCATION. The commission  
 54-33 [~~executive commissioner~~] by rule shall prescribe continuing  
 54-34 education requirements for code enforcement officers and code  
 54-35 enforcement officers in training that:

54-36 (1) establish the number of hours of continuing  
 54-37 education required for renewal of a certificate of registration;

54-38 (2) establish an approved curriculum that includes  
 54-39 material regarding changes in applicable law; and

54-40 (3) provide that the approved curriculum may be taught  
 54-41 by suitable public agencies and by private entities approved by the  
 54-42 department.

54-43 SECTION 1.264. Section 1952.151, Occupations Code, is  
 54-44 amended to read as follows:

54-45 Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

54-46 (a) The commission or executive director [~~department~~] may deny a  
 54-47 person's application for a certificate of registration if the  
 54-48 person's certificate or license to engage in code enforcement or a  
 54-49 related profession has been revoked by another licensing entity in  
 54-50 this state or another state for:

54-51 (1) unprofessional conduct;

54-52 (2) fraud, deceit, or negligence; or

54-53 (3) misconduct in the practice of code enforcement or  
 54-54 a related profession.

54-55 (b) The commission or executive director [~~department~~] shall  
 54-56 suspend or revoke a certificate of registration issued under this  
 54-57 chapter if the commission or executive director [~~department~~]  
 54-58 determines that the certificate holder:

54-59 (1) engaged in fraud or deceit in obtaining a  
 54-60 certificate; or

54-61 (2) is grossly negligent, incompetent, or guilty of  
 54-62 misconduct in the practice of code enforcement.

54-63 SECTION 1.265. Section 1952.252(a), Occupations Code, is  
 54-64 amended to read as follows:

54-65 (a) The amount of an [~~the~~] administrative penalty imposed  
 54-66 for a violation of this chapter or a rule adopted or order issued  
 54-67 under this chapter may not be less than \$50 or more than \$5,000 for  
 54-68 each violation. Each day a violation continues or occurs is a  
 54-69 separate violation for the purpose of imposing a penalty.

55-1 SECTION 1.266. Section 1953.001, Occupations Code, as  
 55-2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 55-3 2015, is amended by amending Subdivisions (1) and (2) and adding  
 55-4 Subdivision (1-a) to read as follows:

55-5 (1) "Commission" means the Texas Commission of  
 55-6 Licensing and Regulation.

55-7 (1-a) "Department" means the Texas Department of  
 55-8 Licensing and Regulation [State Health Services].

55-9 (2) "Executive director [commissioner]" means the  
 55-10 executive director [commissioner] of the department [Health and  
 55-11 Human Services Commission].

55-12 SECTION 1.267. The heading to Subchapter B, Chapter 1953,  
 55-13 Occupations Code, as amended by S.B. 219, Acts of the 84th  
 55-14 Legislature, Regular Session, 2015, is amended to read as follows:

55-15 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~  
 55-16 ~~DEPARTMENT]~~

55-17 SECTION 1.268. Section 1953.051, Occupations Code, as  
 55-18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 55-19 2015, is amended to read as follows:

55-20 Sec. 1953.051. GENERAL POWERS AND DUTIES [OF DEPARTMENT].

55-21 (a) The executive director shall administer and enforce this  
 55-22 chapter.

55-23 (b) The department shall:

55-24 (1) administer continuing education requirements; and

55-25 (2) prescribe necessary forms.

55-26 SECTION 1.269. Subchapter B, Chapter 1953, Occupations  
 55-27 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 55-28 Session, 2015, is amended by adding Section 1953.0512 to read as  
 55-29 follows:

55-30 Sec. 1953.0512. ADVISORY COMMITTEE. The department may  
 55-31 establish an advisory committee to provide advice and  
 55-32 recommendations to the department on technical matters relevant to  
 55-33 the administration of this chapter.

55-34 SECTION 1.270. Section 1953.102, Occupations Code, as  
 55-35 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 55-36 2015, is amended to read as follows:

55-37 Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be  
 55-38 eligible to receive a certificate of registration as a professional  
 55-39 sanitarian, a person must:

55-40 (1) hold at least a bachelor's degree from an  
 55-41 accredited college or university that includes at least 30 semester  
 55-42 hours in basic or applied science;

55-43 (2) complete any additional training in the basic  
 55-44 sciences or public health the department [executive commissioner]  
 55-45 determines necessary to effectively serve as a professional  
 55-46 sanitarian; and

55-47 (3) have at least two years of full-time experience in  
 55-48 sanitation.

55-49 (b) The commission [executive commissioner] by rule may  
 55-50 establish other qualifications for registration.

55-51 SECTION 1.271. Section 1953.104(a), Occupations Code, as  
 55-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 55-53 2015, is amended to read as follows:

55-54 (a) The department shall issue a certificate of  
 55-55 registration as a professional sanitarian to a person who:

55-56 (1) applies in the manner and on the form prescribed by  
 55-57 the executive director [department];

55-58 (2) pays the registration fee set by the commission  
 55-59 [executive commissioner] by rule;

55-60 (3) meets the eligibility requirements prescribed by  
 55-61 Section 1953.102; and

55-62 (4) passes an examination under Subchapter D.

55-63 SECTION 1.272. Section 1953.105(a), Occupations Code, as  
 55-64 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 55-65 2015, is amended to read as follows:

55-66 (a) The department shall issue a certificate of  
 55-67 registration as a sanitarian in training to a person who:

55-68 (1) is employed in sanitation;

55-69 (2) meets the eligibility requirements prescribed by

56-1 Section 1953.102, other than the requirements relating to  
56-2 experience;

56-3 (3) pays a registration fee prescribed by the  
56-4 commission [~~executive commissioner~~] by rule for a sanitarian in  
56-5 training; and

56-6 (4) passes an examination under Subchapter D.

56-7 SECTION 1.273. The heading to Section 1953.106, Occupations  
56-8 Code, is amended to read as follows:

56-9 Sec. 1953.106. RENEWAL [~~OR REINSTATEMENT~~] OF CERTIFICATE.

56-10 SECTION 1.274. Section 1953.106(a), Occupations Code, as  
56-11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
56-12 2015, is amended to read as follows:

56-13 (a) To renew a certificate of registration under this  
56-14 chapter, a professional sanitarian must:

56-15 (1) pay to the department a renewal fee prescribed by  
56-16 the commission [~~executive commissioner~~] by rule; and

56-17 (2) provide proof of completion of continuing  
56-18 education requirements [~~contact hours as~~] prescribed by the  
56-19 commission by rule [~~executive commissioner~~].

56-20 SECTION 1.275. Section 1953.151(b), Occupations Code, as  
56-21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
56-22 2015, is amended to read as follows:

56-23 (b) An applicant for a certificate of registration may not  
56-24 take the examination unless the applicant pays the examination fee  
56-25 prescribed by the commission [~~executive commissioner~~] by rule.

56-26 SECTION 1.276. Section 1953.201, Occupations Code, as  
56-27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
56-28 2015, is amended to read as follows:

56-29 Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

56-30 (a) The commission or executive director [~~department~~] may deny a  
56-31 person's application for a certificate of registration if:

56-32 (1) the person's certificate or license to engage in a  
56-33 profession in this state or elsewhere has been revoked for  
56-34 unprofessional conduct, fraud, deceit, negligence, or misconduct  
56-35 in the practice of the profession; or

56-36 (2) satisfactory proof is presented to the commission  
56-37 or executive director [~~department~~] establishing that the person has  
56-38 been found guilty of unprofessional conduct, fraud, deceit,  
56-39 negligence, or misconduct in the practice of a profession.

56-40 (b) The commission or executive director [~~department~~] may  
56-41 suspend or revoke a certificate of registration if the certificate  
56-42 holder:

56-43 (1) practiced fraud or deceit in obtaining the  
56-44 certificate; or

56-45 (2) acted in a manner constituting gross negligence,  
56-46 incompetency, or misconduct in the practice of sanitation.

56-47 SECTION 1.277. Section 1953.302(a), Occupations Code, is  
56-48 amended to read as follows:

56-49 (a) The amount of an [~~the~~] administrative penalty imposed  
56-50 for a violation of this chapter or a rule adopted or order issued  
56-51 under this chapter may not be less than \$50 or more than \$5,000 for  
56-52 each violation. Each day a violation continues or occurs is a  
56-53 separate violation for the purpose of imposing a penalty.

56-54 SECTION 1.278. Section 1958.001, Occupations Code, as  
56-55 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
56-56 2015, is amended by amending Subdivisions (1) and (2) and adding  
56-57 Subdivision (1-a) to read as follows:

56-58 (1) "Commission" means the Texas Commission of  
56-59 Licensing and Regulation.

56-60 (1-a) "Department" means the Texas Department of  
56-61 Licensing and Regulation [~~State Health Services~~].

56-62 (2) "Executive director [~~commissioner~~]" means the  
56-63 executive director [~~commissioner~~] of the department [~~Health and~~  
56-64 ~~Human Services Commission~~].

56-65 SECTION 1.279. Section 1958.051, Occupations Code, is  
56-66 amended to read as follows:

56-67 Sec. 1958.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT,~~  
56-68 ~~SCOPE OF AUTHORITY~~]. The executive director [~~department~~] shall  
56-69 administer and enforce this chapter to protect the public from the

57-1 adverse health effects of mold.

57-2 SECTION 1.280. Section 1958.054, Occupations Code, as  
57-3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-4 2015, is amended to read as follows:

57-5 Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND  
57-6 WORK PRACTICES. The commission [~~executive commissioner~~] by rule  
57-7 shall establish minimum performance standards and work practices  
57-8 for conducting a mold assessment or mold remediation in this state.

57-9 SECTION 1.281. Section 1958.056(b), Occupations Code, as  
57-10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-11 2015, is amended to read as follows:

57-12 (b) The commission [~~executive commissioner~~] shall adopt  
57-13 rules regarding compliance investigations.

57-14 SECTION 1.282. Section 1958.058, Occupations Code, as  
57-15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-16 2015, is amended to read as follows:

57-17 Sec. 1958.058. SAFETY STANDARDS. The commission [~~executive  
57-18 commissioner~~] by rule may develop and establish mold safety  
57-19 standards for license holders if appropriate scientific  
57-20 information exists regarding the effect of mold.

57-21 SECTION 1.283. Section 1958.059, Occupations Code, as  
57-22 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-23 2015, is amended to read as follows:

57-24 Sec. 1958.059. CODE OF ETHICS. The commission [~~executive  
57-25 commissioner~~] by rule shall adopt a code of ethics for license  
57-26 holders that promotes the education of mold assessors and mold  
57-27 remediators concerning the ethical, legal, and business principles  
57-28 that should govern their conduct.

57-29 SECTION 1.284. Section 1958.101(b), Occupations Code, as  
57-30 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-31 2015, is amended to read as follows:

57-32 (b) The commission [~~executive commissioner~~] shall adopt  
57-33 rules regarding:

57-34 (1) the scope of mold-related work for which a license  
57-35 is required, including the supervision of employees or other  
57-36 persons by license holders; and

57-37 (2) renewal requirements for a license issued under  
57-38 this chapter.

57-39 SECTION 1.285. Section 1958.103, Occupations Code, as  
57-40 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-41 2015, is amended to read as follows:

57-42 Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES.  
57-43 The commission [~~executive commissioner~~] may adopt rules to require  
57-44 the registration of employees supervised by license holders.

57-45 SECTION 1.286. Section 1958.104, Occupations Code, as  
57-46 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-47 2015, is amended to read as follows:

57-48 Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The  
57-49 commission [~~executive commissioner~~] shall adopt rules regarding a  
57-50 license application. The commission [~~executive commissioner~~] shall  
57-51 adopt rules that establish minimum requirements for a license,  
57-52 including:

57-53 (1) the type of license;

57-54 (2) the qualifications for the license, including any  
57-55 previous training required under Section 1958.106;

57-56 (3) renewal requirements for the license, including  
57-57 ongoing continuing education required under Section 1958.106; and

57-58 (4) liability insurance requirements for the license.

57-59 SECTION 1.287. Section 1958.106(a), Occupations Code, as  
57-60 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-61 2015, is amended to read as follows:

57-62 (a) The commission [~~executive commissioner~~] shall adopt  
57-63 rules regarding training required under this chapter and continuing  
57-64 education required for a license holder under this chapter.

57-65 SECTION 1.288. Section 1958.153(c), Occupations Code, as  
57-66 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
57-67 2015, is amended to read as follows:

57-68 (c) The commission [~~executive commissioner~~] shall adopt  
57-69 rules to implement this section, including rules:

58-1 (1) describing the information that must be provided  
58-2 in the notice; and

58-3 (2) authorizing verbal notification to the department  
58-4 in an emergency.

58-5 SECTION 1.289. Section 1958.154(c), Occupations Code, as  
58-6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
58-7 2015, is amended to read as follows:

58-8 (c) The commission [~~executive commissioner~~] shall adopt  
58-9 rules to implement this section, other than rules described by  
58-10 Subsection (d).

58-11 SECTION 1.290. Section 1958.155(c), Occupations Code, as  
58-12 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
58-13 2015, is amended to read as follows:

58-14 (c) A license holder who is not an individual shall disclose  
58-15 to the department the name, address, and occupation of each person  
58-16 that has an ownership interest in the license holder. The license  
58-17 holder shall report any changes in ownership to the department. The  
58-18 commission [~~executive commissioner~~] shall adopt rules to implement  
58-19 this section, including rules regarding the form of the disclosure  
58-20 and the time required to make disclosures or to report a change in  
58-21 ownership.

58-22 SECTION 1.291. Section 1958.201, Occupations Code, is  
58-23 amended to read as follows:

58-24 Sec. 1958.201. DISCIPLINARY ACTION. If a license holder  
58-25 violates this chapter or an order or rule adopted under this  
58-26 chapter, the commission or executive director [~~department~~], after  
58-27 providing the person with notice and an opportunity for a hearing,  
58-28 shall take one or more of the following actions:

- 58-29 (1) revoke, suspend, or refuse to renew the license;
- 58-30 (2) impose an administrative penalty;
- 58-31 (3) bring an action to collect a civil penalty; or
- 58-32 (4) reprimand the person.

58-33 SECTION 1.292. Section 1958.252, Occupations Code, as  
58-34 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
58-35 2015, is amended to read as follows:

58-36 Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an  
58-37 administrative penalty imposed for a violation of this chapter or a  
58-38 rule adopted or order issued under this chapter may not exceed  
58-39 \$5,000 for each violation. Each day a violation continues under  
58-40 Section 1958.101 or 1958.155 may be considered a separate violation  
58-41 for purposes of imposing a penalty.

58-42 (b) The amount shall be based on [~~In determining the amount~~  
58-43 ~~of the penalty, the department shall consider~~]:

- 58-44 (1) whether the violation was committed knowingly,  
58-45 intentionally, or fraudulently;
- 58-46 (2) the seriousness of the violation;
- 58-47 (3) any hazard created to the health and safety of the  
58-48 public;
- 58-49 (4) the person's history of previous violations; and
- 58-50 (5) any other matter that justice may require.

58-51 SECTION 1.293. Section 1958.253(a), Occupations Code, as  
58-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
58-53 2015, is amended to read as follows:

58-54 (a) The commission or executive director [~~department~~] may  
58-55 choose not to impose an administrative penalty under this  
58-56 subchapter if, not later than the 10th day after the date of written  
58-57 notice of the violation [~~under Section 1958.254~~], the person  
58-58 provides conclusive evidence that the circumstances giving rise to  
58-59 the violation have been corrected and all actual damages are paid.

58-60 SECTION 1.294. Section 521.374(a), Transportation Code, is  
58-61 amended to read as follows:

58-62 (a) A person whose license is suspended under Section  
58-63 521.372 may attend an educational program, approved by the Texas  
58-64 Department of Licensing and Regulation [~~Commission on Alcohol and~~  
58-65 ~~Drug Abuse~~] under rules adopted by the Texas Commission of  
58-66 Licensing and Regulation [~~commission~~] and the department, that is  
58-67 designed to educate persons on the dangers of drug abuse.

58-68 SECTION 1.295. Section 521.375, Transportation Code, is  
58-69 amended to read as follows:

59-1 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas  
59-2 Commission of Licensing and Regulation [~~on Alcohol and Drug Abuse~~]  
59-3 and the department shall jointly adopt rules for the qualification  
59-4 and approval of providers of educational programs under Section  
59-5 521.374.

59-6 (b) The Texas Department of Licensing and Regulation  
59-7 [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly  
59-8 adopted rules.

59-9 SECTION 1.296. Section 521.376, Transportation Code, is  
59-10 amended to read as follows:

59-11 Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND  
59-12 REGULATION [~~COMMISSION ON ALCOHOL AND DRUG ABUSE~~]; APPLICATION AND  
59-13 RENEWAL FEES. The Texas Department of Licensing and Regulation  
59-14 [~~Commission on Alcohol and Drug Abuse~~]:

59-15 (1) shall monitor, coordinate, and provide training to  
59-16 persons who provide educational programs under Section 521.374;

59-17 (2) shall administer the approval of those educational  
59-18 programs; and

59-19 (3) may charge a nonrefundable application fee for:

59-20 (A) initial certification of approval; and

59-21 (B) renewal of the certification.

59-22 SECTION 1.297. The following provisions of the Health and  
59-23 Safety Code are repealed:

59-24 (1) Section 401.509;

59-25 (2) Section 401.511;

59-26 (3) Sections 401.512(b) and (c); and

59-27 (4) Sections 401.522(b) and (c).

59-28 SECTION 1.298. The following provisions of the Occupations  
59-29 Code, including provisions amended by S.B. 219, Acts of the 84th  
59-30 Legislature, Regular Session, 2015, are repealed:

59-31 (1) Section 455.051;

59-32 (2) Section 455.056;

59-33 (3) Section 455.057;

59-34 (4) Section 455.058;

59-35 (5) Section 455.1565;

59-36 (6) Section 455.1571;

59-37 (7) Sections 455.160(b), (c), (d), (e), (f), and (g);

59-38 (8) Section 455.161;

59-39 (9) Section 455.252;

59-40 (10) Section 455.253;

59-41 (11) Section 455.254;

59-42 (12) Section 455.301;

59-43 (13) Section 455.303;

59-44 (14) Section 455.304;

59-45 (15) Section 455.305;

59-46 (16) Section 455.306;

59-47 (17) Section 455.307;

59-48 (18) Section 455.308;

59-49 (19) Section 455.309;

59-50 (20) Section 455.310;

59-51 (21) Section 455.311;

59-52 (22) Section 1952.052;

59-53 (23) Section 1952.054;

59-54 (24) Section 1952.105(b);

59-55 (25) Section 1952.152;

59-56 (26) Section 1952.251;

59-57 (27) Section 1952.253;

59-58 (28) Section 1952.254;

59-59 (29) Section 1952.255;

59-60 (30) Section 1952.256;

59-61 (31) Section 1952.257;

59-62 (32) Section 1952.258;

59-63 (33) Section 1952.259;

59-64 (34) Section 1952.260;

59-65 (35) Section 1952.261;

59-66 (36) Section 1953.0511;

59-67 (37) Section 1953.052;

59-68 (38) Section 1953.054;

59-69 (39) Section 1953.055;

- 60-1 (40) Section 1953.103;
- 60-2 (41) Section 1953.106(b);
- 60-3 (42) Section 1953.152;
- 60-4 (43) Section 1953.202;
- 60-5 (44) Section 1953.301;
- 60-6 (45) Section 1953.303;
- 60-7 (46) Section 1953.304;
- 60-8 (47) Section 1953.305;
- 60-9 (48) Section 1953.306;
- 60-10 (49) Section 1953.307;
- 60-11 (50) Section 1953.308;
- 60-12 (51) Section 1953.309;
- 60-13 (52) Section 1953.310;
- 60-14 (53) Section 1953.311;
- 60-15 (54) Section 1958.053;
- 60-16 (55) Section 1958.055(a);
- 60-17 (56) Section 1958.057;
- 60-18 (57) Section 1958.107;
- 60-19 (58) Section 1958.251;
- 60-20 (59) Section 1958.254;
- 60-21 (60) Section 1958.255;
- 60-22 (61) Section 1958.256;
- 60-23 (62) Section 1958.257;
- 60-24 (63) Section 1958.258; and
- 60-25 (64) Section 1958.302.

PART 3. TRANSITION PROVISIONS

60-27 SECTION 1.299. (a) A rule or fee of the Department of  
 60-28 State Health Services that relates to a program transferred under  
 60-29 this article and that is in effect on the effective date of the  
 60-30 transfer remains in effect until changed by the Texas Commission of  
 60-31 Licensing and Regulation.

60-32 (b) A license, permit, certificate of registration, or  
 60-33 other authorization issued by the Department of State Health  
 60-34 Services for a program transferred under this article is continued  
 60-35 in effect as a license, permit, certificate, or other authorization  
 60-36 of the Texas Department of Licensing and Regulation after the  
 60-37 effective date of the transfer.

60-38 (c) A complaint, investigation, contested case, or other  
 60-39 proceeding before the Department of State Health Services relating  
 60-40 to a program transferred under this article that is pending on the  
 60-41 effective date of the transfer is transferred without change in  
 60-42 status to the Texas Commission of Licensing and Regulation or Texas  
 60-43 Department of Licensing and Regulation, as appropriate.

60-44 SECTION 1.300. (a) As soon as practicable after the  
 60-45 effective date of a transfer under this article, the Department of  
 60-46 State Health Services and the Texas Department of Licensing and  
 60-47 Regulation shall adopt a transition plan to provide for the orderly  
 60-48 transfer of powers, duties, functions, programs, and activities  
 60-49 under this article. The transition plan must provide for the  
 60-50 transfer to be completed:

60-51 (1) not later than August 31, 2017, for a program  
 60-52 transferred under Part 1 of this article; or

60-53 (2) not later than August 31, 2019, for a program  
 60-54 transferred under Part 2 of this article.

60-55 (b) The Department of State Health Services shall provide  
 60-56 the Texas Department of Licensing and Regulation with access to any  
 60-57 systems or information necessary for the Texas Department of  
 60-58 Licensing and Regulation to accept a program transferred under this  
 60-59 article.

60-60 (c) On the date specified in the transition plan required  
 60-61 under Subsection (a) of this section for the transfer of a  
 60-62 particular program to the Texas Department of Licensing and  
 60-63 Regulation, if applicable, the existing board associated with the  
 60-64 program is abolished and the Texas Department of Licensing and  
 60-65 Regulation shall, as soon as practicable after that date, appoint  
 60-66 the advisory board for the program.

60-67 (d) On the date specified in the transition plan required  
 60-68 under Subsection (a) of this section for the transfer of a  
 60-69 particular program to the Texas Department of Licensing and

61-1 Regulation, all full-time equivalent employee positions at the  
 61-2 Department of State Health Services that primarily concern the  
 61-3 administration or enforcement of the program being transferred  
 61-4 become positions at the Texas Department of Licensing and  
 61-5 Regulation. The Texas Department of Licensing and Regulation shall  
 61-6 post the positions for hiring and, when filling the positions,  
 61-7 shall give consideration to, but is not required to hire, an  
 61-8 applicant who, immediately before the date of the transfer, was an  
 61-9 employee at the Department of State Health Services primarily  
 61-10 involved in administering or enforcing the transferred program.

61-11 (e) Not later than August 31, 2017, the Texas Department of  
 61-12 Licensing and Regulation shall create a health professions division  
 61-13 to oversee programs transferred under this article and to ensure  
 61-14 the department develops the necessary health-related expertise.

61-15 SECTION 1.301. (a) The Texas Department of Licensing and  
 61-16 Regulation shall, not later than December 1 of each year, submit a  
 61-17 report regarding the implementation of this article with respect to  
 61-18 that calendar year to:

61-19 (1) the Sunset Advisory Commission;

61-20 (2) each standing committee of the senate and house of  
 61-21 representatives having primary jurisdiction over matters related  
 61-22 to health and human services or the occupational licensing of  
 61-23 health-related professions; and

61-24 (3) each advisory board or committee established to  
 61-25 advise the Texas Department of Licensing and Regulation with regard  
 61-26 to a program transferred to the department under this article.

61-27 (b) A report submitted under this section must include:

61-28 (1) detailed information regarding:

61-29 (A) the status of the implementation of the  
 61-30 transition plan adopted under Section 1.300 of this Act, including  
 61-31 an explanation of any delays or challenges in implementing the  
 61-32 plan;

61-33 (B) appointments to each advisory board or  
 61-34 committee established to advise the Texas Department of Licensing  
 61-35 and Regulation with regard to a program transferred to the  
 61-36 department under this article; and

61-37 (C) the establishment and operation of the health  
 61-38 professions division of the Texas Department of Licensing and  
 61-39 Regulation; and

61-40 (2) any other information the Texas Department of  
 61-41 Licensing and Regulation considers relevant to the transfer of  
 61-42 programs to the department under this article.

61-43 (c) In preparing a report required by this section, the  
 61-44 Texas Department of Licensing and Regulation shall solicit input  
 61-45 from the Department of State Health Services and each advisory  
 61-46 board or committee established to advise the Texas Department of  
 61-47 Licensing and Regulation with regard to a program transferred to  
 61-48 the department under this article.

61-49 (d) The Texas Department of Licensing and Regulation shall  
 61-50 make each report submitted under this section available to the  
 61-51 public on the department's Internet website.

61-52 (e) This section expires January 1, 2020.

61-53 ARTICLE 2. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL  
 61-54 BOARD

61-55 SECTION 2.001. Section 151.004, Occupations Code, is  
 61-56 amended to read as follows:

61-57 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical  
 61-58 Board is subject to Chapter 325, Government Code (Texas Sunset  
 61-59 Act). Unless continued in existence as provided by that chapter,  
 61-60 the board is abolished and this subtitle and Chapters 204, 205,  
 61-61 ~~and~~ 206, 601, 602, 603, and 604 expire September 1, 2017.

61-62 SECTION 2.002. Chapter 167, Occupations Code, is amended by  
 61-63 adding Section 167.0091 to read as follows:

61-64 Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS.  
 61-65 Notwithstanding any other provision of this chapter, the board, the  
 61-66 Texas Board of Medical Radiologic Technology, or the Texas Board of  
 61-67 Respiratory Care, as appropriate, may make a referral to the  
 61-68 program and require participation in the program as a prerequisite  
 61-69 for issuing or maintaining a license, certificate, permit, or other

62-1 authorization under Chapter 601, 602, 603, or 604.

62-2 SECTION 2.003. Section 601.002, Occupations Code, as  
62-3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
62-4 2015, is amended by amending Subdivisions (1), (3), and (4) and  
62-5 adding Subdivisions (1-a), (4-a), and (4-b) to read as follows:

62-6 (1) "Advisory board" means the Texas Board of Medical  
62-7 Radiologic Technology.

62-8 (1-a) "Authorized person" means a person who meets or  
62-9 exceeds the minimum educational standards of the advisory board  
62-10 [department] under Section 601.201.

62-11 (3) "Direct supervision" means supervision and  
62-12 control by a medical radiologic technologist or a practitioner who:

62-13 (A) assumes legal liability for a student  
62-14 employed to perform a radiologic procedure and enrolled in a  
62-15 program that meets the requirements adopted under Section 601.052  
62-16 [601.053]; and

62-17 (B) is physically present during the performance  
62-18 of the radiologic procedure to provide consultation or direct the  
62-19 action of the student.

62-20 (4) "Education program" means clinical training or any  
62-21 other program offered by an organization approved by the advisory  
62-22 board [department] that:

62-23 (A) has a specified objective;

62-24 (B) includes planned activities for  
62-25 participants; and

62-26 (C) uses an approved method for measuring the  
62-27 progress of participants.

62-28 (4-a) "Hospital" has the meaning assigned by Section  
62-29 157.051.

62-30 (4-b) "Medical board" means the Texas Medical Board.

62-31 SECTION 2.004. Chapter 601, Occupations Code, is amended by  
62-32 adding Subchapter A-1 to read as follows:

62-33 SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY

62-34 Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY.  
62-35 The Texas Board of Medical Radiologic Technology is an advisory  
62-36 board to the Texas Medical Board.

62-37 Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) The  
62-38 advisory board consists of nine members appointed by the governor  
62-39 with the advice and consent of the senate as follows:

62-40 (1) four medical radiologic technologists who each  
62-41 have at least five years of experience as a medical radiologic  
62-42 technologist;

62-43 (2) two physicians licensed in this state who  
62-44 supervise medical radiologic technologists; and

62-45 (3) three members who represent the public.

62-46 (b) Appointments to the advisory board shall be made without  
62-47 regard to the race, color, disability, sex, religion, age, or  
62-48 national origin of the appointee.

62-49 Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS.

62-50 (a) In this section, "Texas trade association" means a cooperative  
62-51 and voluntarily joined statewide association of business or  
62-52 professional competitors in this state designed to assist its  
62-53 members and its industry or profession in dealing with mutual  
62-54 business or professional problems and in promoting their common  
62-55 interest.

62-56 (b) A person may not be a public member of the advisory board  
62-57 if the person or the person's spouse:

62-58 (1) is registered, certified, or licensed by a  
62-59 regulatory agency in a health care profession;

62-60 (2) is employed by or participates in the management  
62-61 of a business entity or other organization regulated by or  
62-62 receiving money from the medical board or advisory board;

62-63 (3) owns or controls, directly or indirectly, more  
62-64 than a 10 percent interest in a business entity or other  
62-65 organization regulated by or receiving money from the medical board  
62-66 or advisory board; or

62-67 (4) uses or receives a substantial amount of tangible  
62-68 goods, services, or money from the medical board or advisory board  
62-69 other than compensation or reimbursement authorized by law for

63-1 advisory board membership, attendance, or expenses.

63-2 (c) A person may not be a member of the advisory board if:

63-3 (1) the person is an officer, employee, or paid  
63-4 consultant of a Texas trade association in the field of health care;  
63-5 or

63-6 (2) the person's spouse is an officer, manager, or paid  
63-7 consultant of a Texas trade association in the field of health care.

63-8 (d) A person may not be a member of the advisory board or act  
63-9 as the general counsel to the advisory board if the person is  
63-10 required to register as a lobbyist under Chapter 305, Government  
63-11 Code, because of the person's activities for compensation on behalf  
63-12 of a profession related to the operation of the medical board or  
63-13 advisory board.

63-14 Sec. 601.024. TERMS; VACANCIES. (a) Members of the  
63-15 advisory board are appointed for staggered six-year terms. The  
63-16 terms of three members expire on February 1 of each odd-numbered  
63-17 year.

63-18 (b) A member may not serve more than:

63-19 (1) two consecutive full terms; or

63-20 (2) a total of three full terms.

63-21 (c) If a vacancy occurs during a member's term, the governor  
63-22 shall appoint a new member to fill the unexpired term.

63-23 Sec. 601.025. OFFICERS. The governor shall designate a  
63-24 member of the advisory board as the presiding officer of the  
63-25 advisory board to serve in that capacity at the will of the  
63-26 governor. The advisory board shall select from its membership an  
63-27 assistant presiding officer and other officers as the advisory  
63-28 board considers necessary to carry out the advisory board's duties.

63-29 Sec. 601.026. GROUNDS FOR REMOVAL. (a) It is a ground for  
63-30 removal from the advisory board that a member:

63-31 (1) does not have at the time of taking office the  
63-32 qualifications required by Sections 601.022 and 601.023;

63-33 (2) does not maintain during service on the advisory  
63-34 board the qualifications required by Sections 601.022 and 601.023;

63-35 (3) is ineligible for membership under Section  
63-36 601.023;

63-37 (4) cannot, because of illness or disability,  
63-38 discharge the member's duties for a substantial part of the member's  
63-39 term; or

63-40 (5) is absent from more than half of the regularly  
63-41 scheduled advisory board meetings that the member is eligible to  
63-42 attend during a calendar year without an excuse approved by a  
63-43 majority vote of the advisory board.

63-44 (b) The validity of an action of the advisory board is not  
63-45 affected by the fact that it is taken when a ground for removal of an  
63-46 advisory board member exists.

63-47 (c) If the executive director of the medical board has  
63-48 knowledge that a potential ground for removal exists, the executive  
63-49 director shall notify the presiding officer of the advisory board  
63-50 of the potential ground. The presiding officer shall then notify  
63-51 the governor and the attorney general that a potential ground for  
63-52 removal exists. If the potential ground for removal involves the  
63-53 presiding officer, the executive director shall notify the next  
63-54 highest ranking officer of the advisory board, who shall then  
63-55 notify the governor and the attorney general that a potential  
63-56 ground for removal exists.

63-57 Sec. 601.027. PER DIEM. A member of the advisory board is  
63-58 entitled to receive a per diem as set by legislative appropriation  
63-59 for each day that the member engages in the business of the advisory  
63-60 board.

63-61 Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,  
63-62 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided  
63-63 by this chapter, the advisory board is subject to Chapters 551, 552,  
63-64 and 2001, Government Code.

63-65 Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) The  
63-66 advisory board shall conduct regular meetings at least three times  
63-67 a year at the times and places the advisory board considers most  
63-68 convenient for applicants and advisory board members.

63-69 (b) The advisory board may hold special meetings in

64-1 accordance with rules adopted by the advisory board and approved by  
 64-2 the medical board.

64-3 (c) A majority of the advisory board members constitutes a  
 64-4 quorum for all purposes except for an advisory board activity  
 64-5 related to examining the credentials of applicants, acting as a  
 64-6 panel for disciplinary action under Section 601.306, or conducting  
 64-7 an informal meeting under Section 601.311.

64-8 Sec. 601.030. TRAINING. (a) A person who is appointed to  
 64-9 and qualifies for office as a member of the advisory board may not  
 64-10 vote, deliberate, or be counted as a member in attendance at a  
 64-11 meeting of the advisory board until the person completes a training  
 64-12 program that complies with this section.

64-13 (b) The training program must provide the person with  
 64-14 information regarding:

64-15 (1) this chapter and the advisory board's programs,  
 64-16 functions, rules, and budget;

64-17 (2) the results of the most recent formal audit of the  
 64-18 advisory board;

64-19 (3) the requirements of laws relating to open  
 64-20 meetings, public information, administrative procedure, and  
 64-21 conflicts of interest; and

64-22 (4) any applicable ethics policies adopted by the  
 64-23 advisory board or the Texas Ethics Commission.

64-24 (c) A person appointed to the advisory board is entitled to  
 64-25 reimbursement, as provided by the General Appropriations Act, for  
 64-26 the travel expenses incurred in attending the training program  
 64-27 regardless of whether the attendance at the program occurs before  
 64-28 or after the person qualifies for office.

64-29 SECTION 2.005. The heading to Subchapter B, Chapter 601,  
 64-30 Occupations Code, as amended by S.B. 219, Acts of the 84th  
 64-31 Legislature, Regular Session, 2015, is amended to read as follows:

64-32 SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [~~EXECUTIVE~~  
 64-33 COMMISSIONER] AND MEDICAL BOARD [~~DEPARTMENT~~]

64-34 SECTION 2.006. Section 601.052, Occupations Code, as  
 64-35 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 64-36 2015, is amended to read as follows:

64-37 Sec. 601.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD  
 64-38 [~~RULES~~]. The advisory board shall:

64-39 (1) [~~executive commissioner may~~] adopt rules that are  
 64-40 reasonable and necessary for the performance of the advisory  
 64-41 board's duties under [~~to implement~~] this chapter, as provided by  
 64-42 Chapter 2001, Government Code, including rules to establish:

64-43 (A) the certification program required by  
 64-44 Subchapter C, including minimum standards for issuing, renewing,  
 64-45 suspending, canceling, or revoking a certificate;

64-46 (B) certification renewal dates;

64-47 (C) the registry required by Subchapter E;

64-48 (D) grounds for disciplinary actions;

64-49 (E) procedures for disciplinary proceedings;

64-50 (F) procedures for non-disciplinary remedial  
 64-51 plans;

64-52 (G) minimum standards for approving and  
 64-53 rescinding approval of curricula and education programs to train  
 64-54 medical radiologic technologists to perform radiologic procedures;

64-55 (H) minimum standards for approving and  
 64-56 rescinding approval of instructors to teach approved curricula or  
 64-57 education programs to train medical radiologic technologists to  
 64-58 perform radiologic procedures;

64-59 (I) procedures for requiring an applicant for or  
 64-60 holder of a certificate to submit to:

64-61 (i) an examination of the applicant's or  
 64-62 holder's physical or mental health; and

64-63 (ii) screening for alcohol or substance  
 64-64 abuse or behavioral issues; and

64-65 (J) procedures for making a confidential  
 64-66 referral to the Texas Physician Health Program established under  
 64-67 Chapter 167, and for requiring participation in the program as a  
 64-68 prerequisite for issuing or maintaining a certificate under this  
 64-69 chapter or approval under Section 601.054 or 601.055;

65-1 (2) review and approve or reject each application for  
 65-2 the issuance or renewal of a certificate;

65-3 (3) issue each certificate;

65-4 (4) deny, suspend, or revoke a certificate or  
 65-5 otherwise discipline a certificate holder; and

65-6 (5) take any action necessary to carry out the  
 65-7 functions and duties of the advisory board under this chapter.

65-8 SECTION 2.007. Subchapter B, Chapter 601, Occupations Code,  
 65-9 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 65-10 Session, 2015, is amended by adding Sections 601.0521 and 601.0522  
 65-11 to read as follows:

65-12 Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN  
 65-13 RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines  
 65-14 to establish procedures for receiving input during the rulemaking  
 65-15 process from individuals and groups that have an interest in  
 65-16 matters under the advisory board's jurisdiction. The guidelines  
 65-17 must provide an opportunity for those individuals and groups to  
 65-18 provide input before the advisory board submits the rule to the  
 65-19 medical board for approval.

65-20 (b) A rule adopted under this chapter may not be challenged  
 65-21 on the grounds that the advisory board did not comply with this  
 65-22 section. If the advisory board was unable to solicit a significant  
 65-23 amount of input from the public or affected persons early in the  
 65-24 rulemaking process, the advisory board shall state in writing the  
 65-25 reasons why it was unable to do so.

65-26 Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING  
 65-27 TO RADIOLOGIC PROCEDURES. (a) The medical board shall adopt rules  
 65-28 consistent with this chapter to regulate individuals who:

65-29 (1) perform radiologic procedures; and

65-30 (2) are licensed by the medical board and supervise an  
 65-31 individual who performs radiologic procedures.

65-32 (b) The medical board, by a majority vote, shall approve or  
 65-33 reject each rule adopted by the advisory board. If approved, the  
 65-34 rule may take effect. If the rule is rejected, the medical board  
 65-35 shall return the rule to the advisory board for revision.

65-36 SECTION 2.008. Section 601.054, Occupations Code, as  
 65-37 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 65-38 2015, is amended to read as follows:

65-39 Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING  
 65-40 PROGRAMS. (a) An applicant for approval of a curriculum or  
 65-41 training program must apply to the advisory board [~~department~~]  
 65-42 on a form [~~prescribed by the department~~] and under rules adopted by the  
 65-43 advisory board [~~executive commissioner~~].

65-44 (b) The advisory board [~~department~~] shall approve a  
 65-45 curriculum or training program that meets the minimum standards  
 65-46 adopted under Section 601.052 [~~601.053~~]. The advisory board  
 65-47 [~~department~~] may review the approval annually.

65-48 (c) The advisory board [~~executive commissioner~~] may set a  
 65-49 fee for approval of a curriculum or training program not to exceed  
 65-50 the estimated amount that the advisory board [~~department~~] projects  
 65-51 to be required for the evaluation of the curriculum or training  
 65-52 program.

65-53 SECTION 2.009. Section 601.055, Occupations Code, as  
 65-54 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 65-55 2015, is amended to read as follows:

65-56 Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL.  
 65-57 (a) An applicant for approval of an instructor must apply to the  
 65-58 advisory board [~~department~~] on a form [~~prescribed by the~~  
 65-59 ~~department~~] and under rules adopted by the advisory board  
 65-60 [~~executive commissioner~~].

65-61 (b) The advisory board [~~department~~] shall approve an  
 65-62 instructor who meets the minimum standards adopted under Section  
 65-63 601.052 [~~601.053~~]. The advisory board [~~department~~] may review the  
 65-64 approval annually.

65-65 SECTION 2.010. Section 601.056(a), Occupations Code, as  
 65-66 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 65-67 2015, is amended to read as follows:

65-68 (a) The medical board, [~~executive commissioner~~] with the  
 65-69 assistance of the Texas Board of Nursing, the Texas Physician

66-1 Assistant Board, and other appropriate state agencies, shall  
 66-2 identify by rule radiologic procedures, other than radiologic  
 66-3 procedures described by Subsection (c), that are dangerous or  
 66-4 hazardous and that may be performed only by a practitioner, ~~or a~~  
 66-5 medical radiologic technologist certified under this chapter,  
 66-6 registered nurse, or licensed physician assistant.

66-7 SECTION 2.011. Section 601.057, Occupations Code, as  
 66-8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 66-9 2015, is amended to read as follows:

66-10 Sec. 601.057. FEES. The advisory board by rule ~~[executive~~  
 66-11 ~~commissioner]~~ may set fees for examination, certificate issuance,  
 66-12 registration of a person under Section 601.202, and application  
 66-13 processing under Section 601.203 in amounts that are reasonable to  
 66-14 cover the costs of administering this chapter without the use of  
 66-15 additional general revenue. ~~[The fees for issuing or renewing a~~  
 66-16 ~~certificate must be in amounts designed to allow the department to~~  
 66-17 ~~recover from the certificate holders all of the department's direct~~  
 66-18 ~~and indirect costs in administering and enforcing this chapter.]~~

66-19 SECTION 2.012. Subchapter B, Chapter 601, Occupations Code,  
 66-20 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 66-21 Session, 2015, is amended by adding Sections 601.0571 and 601.0572  
 66-22 to read as follows:

66-23 Sec. 601.0571. FEE REFUND ON CANCELLATION. The advisory  
 66-24 board may adopt rules relating to the refund of a fee for the  
 66-25 issuance or renewal of a certificate after the cancellation of a  
 66-26 certificate.

66-27 Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL  
 66-28 CONVICTION. The advisory board shall adopt rules and guidelines as  
 66-29 necessary to comply with Chapter 53, except to the extent the  
 66-30 requirements of this chapter are stricter than the requirements of  
 66-31 Chapter 53.

66-32 SECTION 2.013. Section 601.058, Occupations Code, as  
 66-33 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 66-34 2015, is amended to read as follows:

66-35 Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
 66-36 BIDDING. (a) The advisory board ~~[executive commissioner]~~ may not  
 66-37 adopt rules restricting advertising or competitive bidding by a  
 66-38 medical radiologic technologist except to prohibit false,  
 66-39 misleading, or deceptive practices.

66-40 (b) In adopting rules to prohibit false, misleading, or  
 66-41 deceptive practices, the advisory board ~~[executive commissioner]~~  
 66-42 may not include a rule that:

- 66-43 (1) restricts the use of any medium for advertising;  
 66-44 (2) restricts the use of a medical radiologic  
 66-45 technologist's personal appearance or voice in an advertisement;  
 66-46 (3) relates to the size or duration of an  
 66-47 advertisement by the medical radiologic technologist; or  
 66-48 (4) restricts the medical radiologic technologist's  
 66-49 advertisement under a trade name.

66-50 SECTION 2.014. Subchapter B, Chapter 601, Occupations Code,  
 66-51 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 66-52 Session, 2015, is amended by adding Sections 601.059 and 601.060 to  
 66-53 read as follows:

66-54 Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF  
 66-55 RESPONSIBILITIES. (a) The medical board shall provide  
 66-56 administrative and clerical employees as necessary to enable the  
 66-57 advisory board to administer this chapter.

66-58 (b) Subject to the advice and approval of the medical board,  
 66-59 the advisory board shall develop and implement policies that  
 66-60 clearly separate the policy-making responsibilities of the  
 66-61 advisory board and the management responsibilities of the executive  
 66-62 director and staff of the medical board.

66-63 Sec. 601.060. PUBLIC PARTICIPATION. Subject to the advice  
 66-64 and approval of the medical board, the advisory board shall develop  
 66-65 and implement policies that provide the public with a reasonable  
 66-66 opportunity to appear before the advisory board and to speak on any  
 66-67 issue under the jurisdiction of the advisory board.

66-68 SECTION 2.015. Section 601.102, Occupations Code, as  
 66-69 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

67-1 2015, is amended to read as follows:

67-2 Sec. 601.102. CLASSES OF CERTIFICATES. (a) The advisory  
67-3 board [~~executive commissioner~~] shall establish classes of  
67-4 certificates to include all radiologic procedures used in the  
67-5 course and scope of the practice of practitioners licensed in this  
67-6 state.

67-7 (b) The advisory board [~~department~~] may issue to a person:

67-8 (1) a general certificate to perform radiologic  
67-9 procedures; or

67-10 (2) a limited certificate that authorizes the person  
67-11 to perform radiologic procedures only on specific parts of the  
67-12 human body.

67-13 (c) The advisory board [~~department~~] may issue to a person a  
67-14 temporary general certificate or a temporary limited certificate  
67-15 that authorizes the person to perform radiologic procedures for a  
67-16 period not to exceed one year.

67-17 SECTION 2.016. Subchapter C, Chapter 601, Occupations Code,  
67-18 is amended by adding Section 601.1031 to read as follows:

67-19 Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION  
67-20 REQUIREMENT FOR REGISTRATION. (a) The advisory board shall  
67-21 require that an applicant for a certificate submit a complete and  
67-22 legible set of fingerprints, on a form prescribed by the advisory  
67-23 board, to the advisory board or to the Department of Public Safety  
67-24 for the purpose of obtaining criminal history record information  
67-25 from the Department of Public Safety and the Federal Bureau of  
67-26 Investigation.

67-27 (b) The advisory board may not issue a certificate to a  
67-28 person who does not comply with the requirement of Subsection (a).

67-29 (c) The advisory board shall conduct a criminal history  
67-30 check of each applicant for a certificate using information:

67-31 (1) provided by the individual under this section; and

67-32 (2) made available to the advisory board by the  
67-33 Department of Public Safety, the Federal Bureau of Investigation,  
67-34 and any other criminal justice agency under Chapter 411, Government  
67-35 Code.

67-36 (d) The advisory board may:

67-37 (1) enter into an agreement with the Department of  
67-38 Public Safety to administer a criminal history check required under  
67-39 this section; and

67-40 (2) authorize the Department of Public Safety to  
67-41 collect from each applicant the costs incurred by the Department of  
67-42 Public Safety in conducting the criminal history check.

67-43 SECTION 2.017. Section 601.104, Occupations Code, as  
67-44 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
67-45 2015, is amended to read as follows:

67-46 Sec. 601.104. EXAMINATION. (a) The advisory board  
67-47 [~~executive commissioner~~] may adopt rules providing for the  
67-48 preparation and administration of an examination for applicants for  
67-49 a certificate.

67-50 (b) An applicant for a certificate must pass a jurisprudence  
67-51 examination approved by the advisory board.

67-52 SECTION 2.018. Section 601.1041, Occupations Code, is  
67-53 amended to read as follows:

67-54 Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS.

67-55 (a) Not later than the 30th day after the date a person takes an  
67-56 examination for a certificate under this chapter, the advisory  
67-57 board [~~department~~] shall notify the person of the results of the  
67-58 examination.

67-59 (b) If the examination is graded or reviewed by a testing  
67-60 service, the advisory board [~~department~~] shall notify the person of  
67-61 the results of the examination not later than the 14th day after the  
67-62 date the advisory board [~~department~~] receives the results from the  
67-63 testing service. If notice of the examination results will be  
67-64 delayed for longer than 90 days after the examination date, the  
67-65 advisory board [~~department~~] shall notify the person of the reason  
67-66 for the delay before the 90th day.

67-67 (c) The advisory board [~~department~~] may require a testing  
67-68 service to notify a person of the results of the person's  
67-69 examination.

68-1 (d) If requested in writing by a person who fails an  
 68-2 examination for a certificate administered under this chapter, the  
 68-3 advisory board [~~department~~] shall furnish the person with an  
 68-4 analysis of the person's performance on the examination.

68-5 SECTION 2.019. Section 601.105, Occupations Code, is  
 68-6 amended by amending Subsection (a) and adding Subsection (c) to  
 68-7 read as follows:

68-8 (a) The advisory board [~~department~~] shall issue a  
 68-9 certificate to an applicant who:

68-10 (1) meets the minimum standards for certification  
 68-11 established under Section 601.052;

68-12 (2) passes the required examinations;

68-13 (3) complies with the criminal history record  
 68-14 information requirement of Section 601.1031;

68-15 (4) submits an application on a form prescribed by the  
 68-16 advisory board;

68-17 (5) pays the required application fee;

68-18 (6) certifies that the applicant is mentally and  
 68-19 physically able to perform radiologic procedures; and

68-20 (7) submits to the advisory board any other  
 68-21 information the advisory board considers necessary to evaluate the  
 68-22 applicant's qualifications [~~601.053~~].

68-23 (c) The advisory board may delegate authority to medical  
 68-24 board employees to issue certificates under this chapter to  
 68-25 applicants who clearly meet all certification requirements. If the  
 68-26 medical board employees determine that the applicant does not  
 68-27 clearly meet all certification requirements, the application must  
 68-28 be returned to the advisory board. A certificate issued under this  
 68-29 subsection does not require formal advisory board approval.

68-30 SECTION 2.020. Section 601.107, Occupations Code, as  
 68-31 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 68-32 2015, is amended to read as follows:

68-33 Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting  
 68-34 minimum standards for certifying medical radiologic technologists,  
 68-35 the advisory board [~~executive commissioner~~] may establish criteria  
 68-36 for issuing a certificate to a person licensed or otherwise  
 68-37 registered as a medical radiologic technologist by the American  
 68-38 Registry of Radiologic Technologists, the American Registry of  
 68-39 Clinical Radiography Technologists, or another state whose  
 68-40 requirements for licensure or registration were on the date of  
 68-41 licensing or registration substantially equal to the requirements  
 68-42 of this chapter.

68-43 SECTION 2.021. Section 601.108, Occupations Code, as  
 68-44 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 68-45 2015, is amended to read as follows:

68-46 Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES.  
 68-47 (a) The advisory board [~~executive commissioner~~] may establish  
 68-48 guidelines.

68-49 (b) The advisory board [~~executive commissioner~~] shall  
 68-50 provide for the preparation, recognition, or administration of  
 68-51 continuing education programs for medical radiologic technologists  
 68-52 in which participation is required, to the extent required by the  
 68-53 advisory board [~~department~~], to keep the person's certificate.

68-54 SECTION 2.022. Section 601.109, Occupations Code, as  
 68-55 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 68-56 2015, is amended to read as follows:

68-57 Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The advisory  
 68-58 board [~~department~~] may issue a provisional certificate to an  
 68-59 applicant currently licensed or certified in another jurisdiction  
 68-60 who seeks certification in this state and who:

68-61 (1) has been licensed or certified in good standing as  
 68-62 a medical radiologic technologist for at least two years in another  
 68-63 jurisdiction, including a foreign country, that has licensing or  
 68-64 certification requirements substantially equivalent to the  
 68-65 requirements of this chapter;

68-66 (2) has passed a national or other examination  
 68-67 recognized by the advisory board [~~department~~] relating to the  
 68-68 practice of radiologic technology; and

68-69 (3) is sponsored by a medical radiologic technologist

69-1 certified by the advisory board [~~department~~] under this chapter  
 69-2 with whom the provisional certificate holder will practice during  
 69-3 the time the person holds a provisional certificate.

69-4 (b) The advisory board [~~department~~] may waive the  
 69-5 requirement of Subsection (a)(3) for an applicant if the advisory  
 69-6 board [~~department~~] determines that compliance with that subsection  
 69-7 would be a hardship to the applicant.

69-8 (c) A provisional certificate is valid until the date the  
 69-9 advisory board [~~department~~] approves or denies the provisional  
 69-10 certificate holder's application for a certificate. The advisory  
 69-11 board [~~department~~] shall issue a certificate under this chapter to  
 69-12 the provisional certificate holder if:

69-13 (1) the provisional certificate holder is eligible to  
 69-14 be certified under Section 601.107; or

69-15 (2) the provisional certificate holder passes the part  
 69-16 of the examination under Section 601.104 that relates to the  
 69-17 applicant's knowledge and understanding of the laws and rules  
 69-18 relating to the practice of radiologic technology in this state  
 69-19 and:

69-20 (A) the advisory board [~~department~~] verifies  
 69-21 that the provisional certificate holder meets the academic and  
 69-22 experience requirements for a certificate under this chapter; and

69-23 (B) the provisional certificate holder satisfies  
 69-24 any other licensing requirements under this chapter.

69-25 (d) The advisory board [~~department~~] must approve or deny a  
 69-26 provisional certificate holder's application for a certificate not  
 69-27 later than the 180th day after the date the provisional certificate  
 69-28 is issued. The advisory board [~~department~~] may extend the 180-day  
 69-29 period if the results of an examination have not been received by  
 69-30 the advisory board [~~department~~] before the end of that period.

69-31 (e) The advisory board [~~executive commissioner~~] by rule may  
 69-32 establish a fee for a provisional certificate in an amount  
 69-33 reasonable and necessary to cover the cost of issuing the  
 69-34 certificate [~~designed to allow the department to recover from the~~  
 69-35 ~~certificate holders all of the department's direct and indirect~~  
 69-36 ~~costs in administering and enforcing this chapter~~].

69-37 SECTION 2.023. Section 601.110, Occupations Code, as  
 69-38 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 69-39 2015, is amended to read as follows:

69-40 Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than  
 69-41 the 30th day before the date a person's certificate is scheduled to  
 69-42 expire, the advisory board [~~department~~] shall send written notice  
 69-43 of the impending expiration to the person at the person's last known  
 69-44 address according to the records of the advisory board  
 69-45 [~~department~~].

69-46 (b) The advisory board [~~executive commissioner~~] by rule may  
 69-47 adopt a system under which certificates expire on various dates  
 69-48 during the year. For the year in which the certificate expiration  
 69-49 date is changed, the advisory board [~~department~~] shall prorate  
 69-50 certificate fees on a monthly basis so that each certificate holder  
 69-51 pays only that portion of the certificate fee that is allocable to  
 69-52 the number of months during which the certificate is valid. On  
 69-53 renewal of the certificate on the new expiration date, the total  
 69-54 certificate renewal fee is payable.

69-55 SECTION 2.024. Section 601.111, Occupations Code, is  
 69-56 amended to read as follows:

69-57 Sec. 601.111. CERTIFICATE RENEWAL [~~PROCEDURE~~]. (a) On  
 69-58 notification from the advisory board, a [A] person who is otherwise  
 69-59 eligible to renew a certificate may renew an unexpired certificate  
 69-60 by:

69-61 (1) paying the required renewal fee to the advisory  
 69-62 board [~~department~~] before the expiration date of the certificate;

69-63 (2) submitting the appropriate form; and

69-64 (3) meeting any other requirement established by  
 69-65 advisory board rule.

69-66 (a-1) A person whose certificate has expired may not engage  
 69-67 in activities that require a certificate until the certificate has  
 69-68 been renewed.

69-69 (b) A person whose certificate has been expired for 90 days

70-1 or less may renew the certificate by paying to the advisory board  
 70-2 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally  
 70-3 required renewal fee.

70-4 (c) A person whose certificate has been expired for more  
 70-5 than 90 days but less than one year may renew the certificate by  
 70-6 paying to the advisory board [~~department~~] a renewal fee that is  
 70-7 equal to two times the normally required renewal fee.

70-8 (d) A person whose certificate has been expired for one year  
 70-9 or more may not renew the certificate. The person may obtain a new  
 70-10 certificate by complying with the requirements and procedures,  
 70-11 including the examination requirements, for an original  
 70-12 certificate.

70-13 SECTION 2.025. Subchapter C, Chapter 601, Occupations Code,  
 70-14 is amended by adding Section 601.1111 to read as follows:

70-15 Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION  
 70-16 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a  
 70-17 certificate shall submit a complete and legible set of fingerprints  
 70-18 for purposes of performing a criminal history check of the  
 70-19 applicant as provided by Section 601.1031.

70-20 (b) The advisory board may not renew the certificate of a  
 70-21 person who does not comply with the requirement of Subsection (a).

70-22 (c) A certificate holder is not required to submit  
 70-23 fingerprints under this section for the renewal of the certificate  
 70-24 if the holder has previously submitted fingerprints under:

70-25 (1) Section 601.1031 for the initial issuance of the  
 70-26 certificate of registration; or

70-27 (2) this section as part of a prior renewal of a  
 70-28 certificate of registration.

70-29 SECTION 2.026. The heading to Section 601.112, Occupations  
 70-30 Code, is amended to read as follows:

70-31 Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON  
 70-32 [PRACTITIONER].

70-33 SECTION 2.027. Section 601.112(b), Occupations Code, is  
 70-34 amended to read as follows:

70-35 (b) The person must pay to the advisory board [~~department~~] a  
 70-36 fee that is equal to two times the normally required renewal fee for  
 70-37 the certificate.

70-38 SECTION 2.028. Section 601.154, Occupations Code, as  
 70-39 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 70-40 2015, is amended to read as follows:

70-41 Sec. 601.154. HOSPITAL PROCEDURES. A person is not  
 70-42 required to hold a certificate issued under this chapter to perform  
 70-43 a radiologic procedure in a hospital if:

70-44 (1) the hospital participates in the federal Medicare  
 70-45 program or is accredited by the Joint Commission on Accreditation  
 70-46 of Hospitals; and

70-47 (2) the person has completed a training program  
 70-48 approved by the advisory board [~~department~~] under Section 601.201.

70-49 SECTION 2.029. Section 601.156, Occupations Code, as  
 70-50 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 70-51 2015, is amended to read as follows:

70-52 Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING  
 70-53 EDUCATION PROGRAM. A person is not required to hold a certificate  
 70-54 issued under this chapter or to comply with the registration  
 70-55 requirements adopted under Section 601.252 if the person is:

70-56 (1) licensed or otherwise registered as a medical  
 70-57 radiologic technologist by another state, the American Registry of  
 70-58 Radiologic Technologists, the American Registry of Clinical  
 70-59 Radiography Technologists, or a professional organization or  
 70-60 association recognized by the advisory board [~~department~~];

70-61 (2) enrolled in a continuing education program that  
 70-62 meets the requirements adopted under Section 601.108; and

70-63 (3) performing a radiologic procedure as part of the  
 70-64 continuing education program for not more than 10 days.

70-65 SECTION 2.030. Subchapter E, Chapter 601, Occupations Code,  
 70-66 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 70-67 Session, 2015, is amended to read as follows:

70-68 SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS  
 70-69 Sec. 601.201. MANDATORY TRAINING. (a) The minimum

71-1 standards of the advisory board [~~department~~] for approval of a  
 71-2 curriculum or an education program under Section 601.052 [~~601.053~~]  
 71-3 must include mandatory training guidelines for a person, other than  
 71-4 a practitioner, [~~or a~~] medical radiologic technologist, registered  
 71-5 nurse, or licensed physician assistant, who intentionally uses  
 71-6 radiologic technology, including a person who does not hold a  
 71-7 certificate issued under this chapter and who is performing a  
 71-8 radiologic procedure at a hospital or under the direction of a  
 71-9 practitioner, other than a dentist.

71-10 (b) The training program approved by the advisory board  
 71-11 [~~department~~] must contain an appropriate number of hours of  
 71-12 education that must be completed before the person may perform a  
 71-13 radiologic procedure.

71-14 Sec. 601.202. REGISTRY. The advisory board [~~executive~~  
 71-15 ~~commissioner~~] by rule shall establish a registry of persons  
 71-16 required to comply with this subchapter.

71-17 Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to  
 71-18 the advisory board [~~department~~] by a hospital, a federally  
 71-19 qualified health center as defined by 42 U.S.C. Section 1396d, or a  
 71-20 practitioner, the advisory board [~~department~~] shall exempt the  
 71-21 applicant from the requirements of Section 601.201 in employing a  
 71-22 person certified under this chapter or trained as required by  
 71-23 Section 601.201 if the applicant shows a hardship in employing a  
 71-24 person certified under this chapter or trained as required by  
 71-25 Section 601.201.

71-26 (b) The following conditions are considered to be a hardship  
 71-27 for the purposes of Subsection (a):

71-28 (1) that the applicant reports an inability to attract  
 71-29 and retain medical radiologic technologists;

71-30 (2) that the applicant is located at a great distance  
 71-31 from a school of medical radiologic technology;

71-32 (3) that there is a list of qualified persons who have  
 71-33 applied to a school of medical radiologic technology whose  
 71-34 admissions are pending because of a lack of faculty or space;

71-35 (4) that the school of medical radiologic technology  
 71-36 produces an insufficient number of graduates in medical radiologic  
 71-37 technology to meet the needs of the applicant; or

71-38 (5) any other criteria determined by advisory board  
 71-39 [~~department~~] rule.

71-40 SECTION 2.031. Section 601.251, Occupations Code, is  
 71-41 amended to read as follows:

71-42 Sec. 601.251. APPLICABILITY. This subchapter applies to  
 71-43 the:

- 71-44 (1) Texas Board of Nursing;
- 71-45 (2) Texas Board of Chiropractic Examiners;
- 71-46 (3) State Board of Dental Examiners;
- 71-47 (4) Texas Medical Board; [~~and~~]
- 71-48 (5) Texas State Board of Podiatric Medical Examiners;

71-49 and  
 71-50 (6) Texas Physician Assistant Board.

71-51 SECTION 2.032. Section 601.252(a), Occupations Code, is  
 71-52 amended to read as follows:

71-53 (a) Each agency subject to this subchapter, other than the  
 71-54 Texas Board of Nursing and the Texas Physician Assistant Board,  
 71-55 shall adopt rules to regulate the manner in which a person who holds  
 71-56 a license issued by the agency may order, instruct, or direct  
 71-57 another authorized person in the performance of a radiologic  
 71-58 procedure.

71-59 SECTION 2.033. Section 601.253(a), Occupations Code, is  
 71-60 amended to read as follows:

71-61 (a) The Texas Board of Nursing shall [~~may~~] adopt rules  
 71-62 governing registered nurses performing radiologic procedures under  
 71-63 Section 601.151 or 601.154, including rules:

71-64 (1) establishing mandatory training guidelines; and

71-65 (2) requiring [~~shall require~~] registered nurses  
 71-66 performing radiologic procedures under Section 601.151 to register  
 71-67 with the Texas Board of Nursing and to identify the practitioner  
 71-68 ordering the procedures.

71-69 SECTION 2.034. Subchapter F, Chapter 601, Occupations Code,

72-1 is amended by adding Section 601.254 to read as follows:  
 72-2 Sec. 601.254. TEXAS PHYSICIAN ASSISTANT BOARD. (a) The  
 72-3 Texas Physician Assistant Board shall adopt rules governing  
 72-4 licensed physician assistants performing radiologic procedures  
 72-5 under Section 601.151 or 601.154, including rules:

72-6 (1) establishing mandatory training guidelines; and  
 72-7 (2) requiring licensed physician assistants  
 72-8 performing radiologic procedures under Section 601.151 to register  
 72-9 with the Texas Physician Assistant Board and to identify the  
 72-10 practitioner ordering the procedures.

72-11 (b) The Texas Physician Assistant Board shall notify the  
 72-12 agency licensing the practitioner that the physician assistant has  
 72-13 registered under this section.

72-14 SECTION 2.035. Chapter 601, Occupations Code, is amended by  
 72-15 adding Subchapter F-1 to read as follows:

72-16 SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

72-17 Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The  
 72-18 advisory board shall maintain a system to promptly and efficiently  
 72-19 act on complaints filed with the advisory board. The advisory  
 72-20 board shall maintain:

72-21 (1) information about the parties to the complaint and  
 72-22 the subject matter of the complaint;

72-23 (2) a summary of the results of the review or  
 72-24 investigation of the complaint; and

72-25 (3) information about the disposition of the  
 72-26 complaint.

72-27 (b) The advisory board shall make information available  
 72-28 describing its procedures for complaint investigation and  
 72-29 resolution.

72-30 (c) If a written complaint is filed with the advisory board  
 72-31 relating to a certificate holder or a person approved under Section  
 72-32 601.054 or 601.055, the advisory board, as often as quarterly and  
 72-33 until final determination of the action to be taken on the  
 72-34 complaint, shall notify the parties to the complaint of the status  
 72-35 of the complaint unless the notice would jeopardize an active  
 72-36 investigation.

72-37 Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board  
 72-38 shall complete a preliminary investigation of a complaint filed  
 72-39 with the advisory board not later than the 45th day after the date  
 72-40 of receiving the complaint. The advisory board shall first  
 72-41 determine whether the person constitutes a continuing threat to the  
 72-42 public welfare. On completion of the preliminary investigation,  
 72-43 the advisory board shall determine whether to officially proceed on  
 72-44 the complaint. If the advisory board fails to complete the  
 72-45 preliminary investigation in the time required by this section, the  
 72-46 advisory board's official investigation of the complaint is  
 72-47 considered to commence on that date.

72-48 Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except  
 72-49 as provided by Subsection (b), the advisory board shall provide a  
 72-50 person who is the subject of a formal complaint filed under this  
 72-51 chapter with access to all information in its possession that the  
 72-52 advisory board intends to offer into evidence in presenting its  
 72-53 case in chief at the contested hearing on the complaint, subject to  
 72-54 any other privilege or restriction established by rule, statute, or  
 72-55 legal precedent. The advisory board shall provide the information  
 72-56 not later than the 30th day after receipt of a written request from  
 72-57 the person or the person's counsel, unless good cause is shown for  
 72-58 delay.

72-59 (b) The advisory board is not required to provide:

72-60 (1) advisory board investigative reports;

72-61 (2) investigative memoranda;

72-62 (3) the identity of a nontestifying complainant;

72-63 (4) attorney-client communications;

72-64 (5) attorney work product; or

72-65 (6) other material covered by a privilege recognized  
 72-66 by the Texas Rules of Civil Procedure or the Texas Rules of  
 72-67 Evidence.

72-68 (c) Providing information under this section does not  
 72-69 constitute a waiver of privilege or confidentiality under this

73-1 chapter or other law.

73-2 Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION.  
 73-3 On the written request of a health care entity, the advisory board  
 73-4 shall provide to the entity:

73-5 (1) information about a complaint filed against a  
 73-6 person that was resolved after investigation by:

73-7 (A) a disciplinary order of the advisory board;  
 73-8 or

73-9 (B) an agreed settlement; and

73-10 (2) the basis of and current status of any complaint  
 73-11 that has been referred by the executive director of the medical  
 73-12 board for enforcement action.

73-13 Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE  
 73-14 INFORMATION. A complaint, adverse report, investigation file,  
 73-15 other report, or other investigative information in the possession  
 73-16 of or received or gathered by the advisory board, the medical board,  
 73-17 or an employee or agent of the medical board relating to a  
 73-18 certificate holder, a person approved under Section 601.054 or  
 73-19 601.055, an application for certification or approval, or a  
 73-20 criminal investigation or proceeding is privileged and  
 73-21 confidential and is not subject to discovery, subpoena, or other  
 73-22 means of legal compulsion for release to any person other than the  
 73-23 advisory board, the medical board, or an employee or agent of the  
 73-24 advisory board or medical board involved in discipline under this  
 73-25 chapter. For purposes of this section, "investigative information"  
 73-26 includes information related to the identity of a person performing  
 73-27 or supervising compliance monitoring for the advisory board or  
 73-28 medical board and a report prepared by the person related to  
 73-29 compliance monitoring.

73-30 Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE  
 73-31 INFORMATION. (a) Investigative information in the possession of  
 73-32 the advisory board, the medical board, or an employee or agent of  
 73-33 the medical board that relates to the discipline of a certificate  
 73-34 holder or a person approved under Section 601.054 or 601.055, may be  
 73-35 disclosed to:

73-36 (1) a licensing authority in another state or country  
 73-37 in which the certificate holder or person is licensed, certified,  
 73-38 or permitted or has applied for a license, certification, or  
 73-39 permit; or

73-40 (2) a medical peer review committee reviewing:

73-41 (A) an application for privileges; or

73-42 (B) the qualifications of the certificate holder  
 73-43 or person with respect to retaining privileges.

73-44 (b) If investigative information in the possession of the  
 73-45 advisory board, the medical board, or an employee or agent of the  
 73-46 medical board indicates that a crime may have been committed, the  
 73-47 advisory board or medical board, as appropriate, shall report the  
 73-48 information to the proper law enforcement agency. The advisory  
 73-49 board and medical board shall cooperate with and assist each law  
 73-50 enforcement agency conducting a criminal investigation of a  
 73-51 certificate holder or a person approved under Section 601.054 or  
 73-52 601.055 by providing information relevant to the investigation.  
 73-53 Confidential information disclosed to a law enforcement agency  
 73-54 under this subsection remains confidential and may not be disclosed  
 73-55 by the law enforcement agency except as necessary to further the  
 73-56 investigation.

73-57 SECTION 2.036. Subchapter G, Chapter 601, Occupations Code,  
 73-58 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
 73-59 Session, 2015, is amended to read as follows:

73-60 SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

73-61 Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION.  
 73-62 The advisory board [~~department~~] may, for a violation of this  
 73-63 chapter or a rule adopted under this chapter:

73-64 (1) suspend, restrict, revoke, or refuse to renew a  
 73-65 certificate;

73-66 (2) rescind approval of a curriculum, training  
 73-67 program, or instructor;

73-68 (3) deny an application for certification or approval;

73-69 (4) issue a reprimand; or

74-1 (5) place the offender's certificate on probation and  
 74-2 require compliance with a requirement of the advisory board  
 74-3 [~~department~~], including requiring the offender to:

74-4 (A) submit to medical or psychological  
 74-5 treatment;

74-6 (B) meet additional education requirements;

74-7 (C) pass an examination; or

74-8 (D) work under the supervision of a medical  
 74-9 radiologic technologist or other practitioner.

74-10 Sec. 601.302. FOUNDATIONS FOR CERTIFICATE DENIAL OR  
 74-11 DISCIPLINARY ACTION. The advisory board [~~department~~] may take  
 74-12 action under Section 601.301 against a person subject to this  
 74-13 chapter for:

74-14 (1) obtaining or attempting to obtain a certificate  
 74-15 issued under this chapter by bribery or fraud;

74-16 (2) making or filing a false report or record made in  
 74-17 the person's capacity as a medical radiologic technologist;

74-18 (3) intentionally or negligently failing to file a  
 74-19 report or record required by law;

74-20 (4) intentionally obstructing or inducing another to  
 74-21 intentionally obstruct the filing of a report or record required by  
 74-22 law;

74-23 (5) engaging in unprofessional conduct, including the  
 74-24 violation of the standards of practice of radiologic technology  
 74-25 established by the advisory board [~~department~~];

74-26 (6) developing an incapacity that prevents the  
 74-27 practice of radiologic technology with reasonable skill,  
 74-28 competence, and safety to the public as the result of:

74-29 (A) an illness;

74-30 (B) drug or alcohol dependency; or

74-31 (C) another physical or mental condition or  
 74-32 illness;

74-33 (7) failing to report to the advisory board  
 74-34 [~~department~~] the violation of this chapter by another person;

74-35 (8) employing, for the purpose of applying ionizing  
 74-36 radiation to a person, a person who is not certified under or in  
 74-37 compliance with this chapter;

74-38 (9) violating this chapter, a rule adopted under this  
 74-39 chapter, an order of the advisory board [~~department~~] previously  
 74-40 entered in a disciplinary proceeding, or an order to comply with a  
 74-41 subpoena issued by the advisory board [~~department~~];

74-42 (10) having a certificate revoked, suspended, or  
 74-43 otherwise subjected to adverse action or being denied a certificate  
 74-44 by another certification authority in another state, territory, or  
 74-45 country; or

74-46 (11) being convicted of or pleading nolo contendere to  
 74-47 a crime directly related to the practice of radiologic technology.

74-48 Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT  
 74-49 SUPERVISION. The advisory board [~~department~~] may take disciplinary  
 74-50 action against a student for intentionally practicing radiologic  
 74-51 technology without direct supervision.

74-52 Sec. 601.304. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE  
 74-53 HEARING. For a contested case hearing in which a formal complaint  
 74-54 has been filed under this chapter, the [~~The~~] procedure by which the  
 74-55 advisory board [~~department~~] takes a disciplinary action and the  
 74-56 procedure by which a disciplinary action is appealed are governed  
 74-57 by:

74-58 (1) advisory board [~~department~~] rules for a contested  
 74-59 case hearing; and

74-60 (2) Chapter 2001, Government Code.

74-61 Sec. 601.305. SURRENDER OF CERTIFICATE [~~REINSTATEMENT~~].

74-62 (a) The advisory board may accept the voluntary surrender of a  
 74-63 certificate. A person who has surrendered a certificate may not  
 74-64 engage in activities that require a certificate, and the advisory  
 74-65 board may not return the certificate to the person, until the person  
 74-66 demonstrates to the satisfaction of the advisory board [~~subject to~~  
 74-67 ~~disciplinary action under Section 601.302(6) shall, at reasonable~~  
 74-68 ~~intervals, be given an opportunity to demonstrate~~] that the person  
 74-69 is able to resume the practice of radiologic technology.

75-1 (b) The advisory board shall by rule establish guidelines  
 75-2 for determining when a person is competent to resume [~~department~~  
 75-3 ~~may not reinstate a certificate to a holder or issue a certificate~~  
 75-4 ~~to an applicant previously denied a certificate unless the~~  
 75-5 ~~department is satisfied that the holder or applicant has complied~~  
 75-6 ~~with requirements set by the department and is capable of engaging~~  
 75-7 ~~in] the practice of radiologic technology.~~

75-8 Sec. 601.306. EMERGENCY SUSPENSION. (a) The presiding  
 75-9 officer of the advisory board shall appoint a three-member  
 75-10 disciplinary panel consisting of advisory board members to  
 75-11 determine whether a certificate should be temporarily suspended.

75-12 (a-1) The disciplinary panel [~~department~~] shall temporarily  
 75-13 suspend the certificate of a certificate holder if the panel  
 75-14 [department] determines from the evidence or information presented  
 75-15 to it that continued practice by the certificate holder would  
 75-16 constitute a continuing [and imminent] threat to the public  
 75-17 welfare.

75-18 (b) A certificate may be suspended under this section  
 75-19 without notice or hearing on the complaint if:

75-20 (1) action is taken to initiate proceedings for a  
 75-21 hearing before the advisory board [~~State Office of Administrative~~  
 75-22 ~~Hearings]~~ simultaneously with the temporary suspension; and

75-23 (2) a hearing is held as soon as practicable under this  
 75-24 chapter and Chapter 2001, Government Code.

75-25 (c) Notwithstanding Chapter 551, Government Code, the  
 75-26 disciplinary panel may hold a meeting by telephone conference call  
 75-27 if immediate action is required and convening of the panel at one  
 75-28 location is inconvenient for any member of the panel [~~The State~~  
 75-29 ~~Office of Administrative Hearings shall hold a preliminary hearing~~  
 75-30 ~~not later than the 14th day after the date of the temporary~~  
 75-31 ~~suspension to determine if there is probable cause to believe that a~~  
 75-32 ~~continuing and imminent threat to the public welfare still exists.~~  
 75-33 ~~A final hearing on the matter shall be held not later than the 61st~~  
 75-34 ~~day after the date of the temporary suspension].~~

75-35 Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT  
 75-36 DISPOSITIONS. (a) The advisory board may delegate to a committee  
 75-37 of medical board employees the authority to dismiss or enter into an  
 75-38 agreed settlement of a complaint that does not relate directly to  
 75-39 patient care or that involves only administrative violations. The  
 75-40 disposition determined by the committee must be approved by the  
 75-41 advisory board at a public meeting.

75-42 (b) A complaint delegated under this section shall be  
 75-43 referred for an informal proceeding under Section 601.311 if:

75-44 (1) the committee of employees determines that the  
 75-45 complaint should not be dismissed or settled;

75-46 (2) the committee is unable to reach an agreed  
 75-47 settlement; or

75-48 (3) the affected person requests that the complaint be  
 75-49 referred for an informal proceeding.

75-50 Sec. 601.308. SUBPOENA. (a) The executive director of the  
 75-51 medical board, the director's designee, or the secretary-treasurer  
 75-52 of the medical board may issue a subpoena or subpoena duces tecum  
 75-53 for the advisory board:

75-54 (1) to conduct an investigation or a contested  
 75-55 proceeding related to:

75-56 (A) alleged misconduct by a certificate holder or  
 75-57 a person approved under Section 601.054 or 601.055;

75-58 (B) an alleged violation of this chapter or other  
 75-59 law related to radiologic technology; or

75-60 (C) the provision of health care under this  
 75-61 chapter; or

75-62 (2) for purposes of determining whether to issue,  
 75-63 suspend, restrict, or revoke a certificate or approval under this  
 75-64 chapter.

75-65 (b) Failure to timely comply with a subpoena issued under  
 75-66 this section is a ground for:

75-67 (1) disciplinary action by the advisory board or  
 75-68 another licensing or regulatory agency with jurisdiction over the  
 75-69 person subject to the subpoena; and

76-1                   (2) denial of an application for certification or  
 76-2 approval.

76-3                   Sec. 601.309. PROTECTION OF PATIENT IDENTITY. In a  
 76-4 disciplinary investigation or proceeding conducted under this  
 76-5 chapter, the advisory board shall protect the identity of each  
 76-6 patient whose medical records are examined and used in a public  
 76-7 proceeding unless the patient:

76-8                   (1) testifies in the public proceeding; or

76-9                   (2) submits a written release in regard to the  
 76-10 patient's records or identity.

76-11                   Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF  
 76-12 INCARCERATED CERTIFICATE HOLDER. Regardless of the offense, the  
 76-13 advisory board shall suspend the certificate or approval of a  
 76-14 person serving a prison term in a state or federal penitentiary  
 76-15 during the term of the incarceration.

76-16                   Sec. 601.311. INFORMAL PROCEEDINGS. (a) The advisory  
 76-17 board by rule shall adopt procedures governing:

76-18                   (1) informal disposition of a contested case under  
 76-19 Section 2001.056, Government Code; and

76-20                   (2) informal proceedings held in compliance with  
 76-21 Section 2001.054, Government Code.

76-22                   (b) Rules adopted under this section must require that:

76-23                   (1) an informal meeting in compliance with Section  
 76-24 2001.054, Government Code, be scheduled and the advisory board give  
 76-25 notice to the person who is the subject of a complaint of the time  
 76-26 and place of the meeting not later than the 45th day before the date  
 76-27 the meeting is held;

76-28                   (2) the complainant and the person who is the subject  
 76-29 of the complaint be provided an opportunity to be heard;

76-30                   (3) at least one of the advisory board members  
 76-31 participating in the informal meeting as a panelist be a member who  
 76-32 represents the public;

76-33                   (4) a member of the medical board's staff be at the  
 76-34 meeting to present to the advisory board's representative the facts  
 76-35 the staff reasonably believes it could prove by competent evidence  
 76-36 or qualified witnesses at a hearing; and

76-37                   (5) the advisory board's legal counsel or a  
 76-38 representative of the attorney general be present to advise the  
 76-39 advisory board or the medical board's staff.

76-40                   (c) The person who is the subject of the complaint is  
 76-41 entitled to:

76-42                   (1) reply to the staff's presentation; and

76-43                   (2) present the facts the person reasonably believes  
 76-44 the person could prove by competent evidence or qualified witnesses  
 76-45 at a hearing.

76-46                   (d) After ample time is given for the presentations, the  
 76-47 advisory board representative shall recommend that the  
 76-48 investigation be closed or shall attempt to mediate the disputed  
 76-49 matters and make a recommendation regarding the disposition of the  
 76-50 case in the absence of a hearing under applicable law concerning  
 76-51 contested cases.

76-52                   (e) If the person who is the subject of the complaint has  
 76-53 previously been the subject of disciplinary action by the advisory  
 76-54 board, the advisory board shall schedule the informal meeting as  
 76-55 soon as practicable.

76-56                   (f) Section 601.275 applies to an investigation file and  
 76-57 investigative information in the possession of or used by the  
 76-58 advisory board in an informal proceeding under this section.

76-59                   Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL  
 76-60 PROCEEDINGS. (a) In an informal meeting under Section 601.311, at  
 76-61 least two panelists shall be appointed to determine whether an  
 76-62 informal disposition is appropriate.

76-63                   (b) Notwithstanding Subsection (a) and Section  
 76-64 601.311(b)(3), an informal proceeding may be conducted by one  
 76-65 panelist if the person who is the subject of the complaint waives  
 76-66 the requirement that at least two panelists conduct the informal  
 76-67 proceeding. If the person waives that requirement, the panelist  
 76-68 may be any member of the advisory board.

76-69                   (c) Except as provided by Subsection (d), the panel

77-1 requirements described by Subsections (a) and (b) apply to an  
 77-2 informal proceeding conducted by the advisory board under Section  
 77-3 601.311, including a proceeding to:

77-4 (1) consider a disciplinary case to determine if a  
 77-5 violation has occurred; or

77-6 (2) request modification or termination of an order.

77-7 (d) The panel requirements described by Subsections (a) and  
 77-8 (b) do not apply to an informal proceeding conducted by the advisory  
 77-9 board under Section 601.311 to show compliance with an order of the  
 77-10 advisory board.

77-11 Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN  
 77-12 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as  
 77-13 a panelist at an informal meeting under Section 601.311 shall make  
 77-14 recommendations for the disposition of a complaint or allegation.  
 77-15 The member may request the assistance of a medical board employee at  
 77-16 any time.

77-17 (b) Medical board employees shall present a summary of the  
 77-18 allegations against the person who is the subject of the complaint  
 77-19 and of the facts pertaining to the allegation that the employees  
 77-20 reasonably believe may be proven by competent evidence at a formal  
 77-21 hearing.

77-22 (c) An attorney for the advisory board or medical board  
 77-23 shall act as counsel to the panel and, notwithstanding Subsection  
 77-24 (e), shall be present during the informal meeting and the panel's  
 77-25 deliberations to advise the panel on legal issues that arise during  
 77-26 the proceeding. The attorney may ask questions of a participant in  
 77-27 the informal meeting to clarify any statement made by the  
 77-28 participant. The attorney shall provide to the panel a historical  
 77-29 perspective on comparable cases that have appeared before the  
 77-30 advisory board or medical board, keep the proceedings focused on  
 77-31 the case being discussed, and ensure that the medical board's  
 77-32 employees and the person who is the subject of the complaint have an  
 77-33 opportunity to present information related to the case. During the  
 77-34 panel's deliberations, the attorney may be present only to advise  
 77-35 the panel on legal issues and to provide information on comparable  
 77-36 cases that have appeared before the advisory board or medical  
 77-37 board.

77-38 (d) The panel and medical board employees shall provide an  
 77-39 opportunity for the person who is the subject of the complaint and  
 77-40 the person's authorized representative to reply to the medical  
 77-41 board employees' presentation and to present oral and written  
 77-42 statements and facts that the person and representative reasonably  
 77-43 believe could be proven by competent evidence at a formal hearing.

77-44 (e) An employee of the medical board who participated in the  
 77-45 presentation of the allegation or information gathered in the  
 77-46 investigation of the complaint, the person who is the subject of the  
 77-47 complaint, the person's authorized representative, the  
 77-48 complainant, the witnesses, and members of the public may not be  
 77-49 present during the deliberations of the panel. Only the members of  
 77-50 the panel and the attorney serving as counsel to the panel may be  
 77-51 present during the deliberations.

77-52 (f) The panel shall recommend the dismissal of the complaint  
 77-53 or allegations or, if the panel determines that the person has  
 77-54 violated a statute or advisory board rule, the panel may recommend  
 77-55 advisory board action and terms for an informal settlement of the  
 77-56 case.

77-57 (g) The panel's recommendations under Subsection (f) must  
 77-58 be made in a written order and presented to the affected person and  
 77-59 the person's authorized representative. The person may accept the  
 77-60 proposed settlement within the time established by the panel at the  
 77-61 informal meeting. If the person rejects the proposed settlement or  
 77-62 does not act within the required time, the advisory board may  
 77-63 proceed with the filing of a formal complaint with the State Office  
 77-64 of Administrative Hearings.

77-65 Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The  
 77-66 advisory board shall prohibit or limit access to an investigation  
 77-67 file relating to a person subject to an informal proceeding in the  
 77-68 manner provided by Sections 164.007(c) and 601.275.

77-69 Sec. 601.315. REFUND. (a) Subject to Subsection (b), the

78-1 advisory board may order a certificate holder to pay a refund to a  
 78-2 consumer as provided in an agreement resulting from an informal  
 78-3 settlement conference instead of or in addition to imposing an  
 78-4 administrative penalty under Subchapter H.

78-5 (b) The amount of a refund ordered as provided in an  
 78-6 agreement resulting from an informal settlement conference may not  
 78-7 exceed the amount the consumer paid to the certificate holder for a  
 78-8 service regulated by this chapter. The advisory board may not  
 78-9 require payment of other damages or estimate harm in a refund order.

78-10 Sec. 601.316. EXPERT IMMUNITY. An expert who assists the  
 78-11 advisory board is immune from suit and judgment and may not be  
 78-12 subjected to a suit for damages for any investigation, report,  
 78-13 recommendation, statement, evaluation, finding, or other action  
 78-14 taken in the course of assisting the advisory board in a  
 78-15 disciplinary proceeding. The attorney general shall represent the  
 78-16 expert in any suit resulting from a service provided by the person  
 78-17 in good faith to the advisory board.

78-18 SECTION 2.037. Section 601.351, Occupations Code, is  
 78-19 amended to read as follows:

78-20 Sec. 601.351. IMPOSITION OF PENALTY. The advisory board  
 78-21 [department] may impose an administrative penalty against a person  
 78-22 who violates this chapter or a rule adopted under this chapter.

78-23 SECTION 2.038. Section 601.353(a), Occupations Code, is  
 78-24 amended to read as follows:

78-25 (a) If, after investigating a possible violation and the  
 78-26 facts surrounding that possible violation, the advisory board  
 78-27 [department] determines that a violation occurred, the advisory  
 78-28 board [department] shall give written notice of the violation to  
 78-29 the person alleged to have committed the violation.

78-30 SECTION 2.039. Section 601.354, Occupations Code, as  
 78-31 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 78-32 2015, is amended to read as follows:

78-33 Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED.  
 78-34 (a) Not later than the 20th day after the date the person receives  
 78-35 the notice, the person may:

78-36 (1) accept the [department's] determination,  
 78-37 including the proposed administrative penalty; or

78-38 (2) make a written request for a hearing on that  
 78-39 determination.

78-40 (b) If the person accepts the [department's] determination,  
 78-41 the advisory board [department] by order shall approve the  
 78-42 determination and impose the proposed penalty.

78-43 SECTION 2.040. Section 601.355, Occupations Code, as  
 78-44 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 78-45 2015, is amended to read as follows:

78-46 Sec. 601.355. HEARING. (a) If the person timely requests  
 78-47 a hearing, the advisory board [department] shall:

78-48 (1) set a hearing;

78-49 (2) give written notice of the hearing to the person;

78-50 and

78-51 (3) designate a hearings examiner to conduct the  
 78-52 hearing.

78-53 (b) The hearings examiner shall make findings of fact and  
 78-54 conclusions of law and promptly issue to the advisory board  
 78-55 [department] a proposal for decision as to the occurrence of the  
 78-56 violation and the amount of any proposed administrative penalty.

78-57 SECTION 2.041. Section 601.356, Occupations Code, as  
 78-58 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 78-59 2015, is amended to read as follows:

78-60 Sec. 601.356. DECISION BY ADVISORY BOARD [DEPARTMENT].

78-61 (a) Based on the findings of fact and conclusions of law and the  
 78-62 recommendations of the hearings examiner, the advisory board  
 78-63 [department] by order may determine that:

78-64 (1) a violation has occurred and may impose an  
 78-65 administrative penalty; or

78-66 (2) a violation did not occur.

78-67 (b) The advisory board [department] shall give notice of the  
 78-68 order to the person. The notice must include:

78-69 (1) separate statements of the findings of fact and

79-1 conclusions of law;

79-2 (2) the amount of any penalty imposed; and

79-3 (3) a statement of the right of the person to judicial  
79-4 review of the order.

79-5 SECTION 2.042. Sections 601.357(b) and (c), Occupations  
79-6 Code, are amended to read as follows:

79-7 (b) Within the 30-day period, a person who acts under  
79-8 Subsection (a)(3) may:

79-9 (1) stay enforcement of the penalty by:

79-10 (A) paying the penalty to the court for placement  
79-11 in an escrow account; or

79-12 (B) giving to the court a supersedeas bond that  
79-13 is approved by the court for the amount of the penalty and that is  
79-14 effective until all judicial review of the order is final; or

79-15 (2) request the court to stay enforcement of the  
79-16 penalty by:

79-17 (A) filing with the court a sworn affidavit of  
79-18 the person stating that the person is financially unable to pay the  
79-19 penalty and is financially unable to give the supersedeas bond; and

79-20 (B) giving a copy of the affidavit to the  
79-21 advisory board [~~department~~] by certified mail.

79-22 (c) If the advisory board [~~department~~] receives a copy of an  
79-23 affidavit as provided by Subsection (b)(2), the advisory board  
79-24 [~~department~~] may file with the court a contest to the affidavit not  
79-25 later than the fifth day after the date the copy is received.

79-26 SECTION 2.043. Section 601.358, Occupations Code, is  
79-27 amended to read as follows:

79-28 Sec. 601.358. COLLECTION OF PENALTY. If the person does not  
79-29 pay the administrative penalty and the enforcement of the penalty  
79-30 is not stayed, the advisory board [~~department~~] may refer the matter  
79-31 to the attorney general for collection.

79-32 SECTION 2.044. Section 601.360(a), Occupations Code, is  
79-33 amended to read as follows:

79-34 (a) If, after judicial review, the administrative penalty  
79-35 is reduced or not imposed by the court, the court shall, after the  
79-36 judgment becomes final:

79-37 (1) order the appropriate amount, plus accrued  
79-38 interest, be remitted to the person by the advisory board  
79-39 [~~department~~] if the person paid the penalty under Section  
79-40 601.357(a)(2); or

79-41 (2) if the person paid the penalty under Section  
79-42 601.357(b)(1)(A) or posted a supersedeas bond, order the advisory  
79-43 board [~~department~~] to:

79-44 (A) execute a complete release of the escrow  
79-45 account or bond, as appropriate, if the penalty is not imposed; or

79-46 (B) release the escrow account or bond, as  
79-47 appropriate, after the reduced penalty has been paid from the  
79-48 account or by the person.

79-49 SECTION 2.045. Section 601.361, Occupations Code, as  
79-50 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
79-51 2015, is amended to read as follows:

79-52 Sec. 601.361. EXPENSES AND COSTS. (a) In this section,  
79-53 "reasonable expenses and costs" includes expenses incurred by the  
79-54 advisory board [~~department~~] and the attorney general in the  
79-55 investigation, initiation, or prosecution of an action, including  
79-56 reasonable investigative costs, court costs, attorney's fees,  
79-57 witness fees, and deposition expenses.

79-58 (b) The advisory board [~~department~~] may assess reasonable  
79-59 expenses and costs against a person in an administrative hearing  
79-60 if, as a result of the hearing, an administrative penalty is  
79-61 assessed against the person. The person shall pay expenses and  
79-62 costs assessed under this subsection not later than the 30th day  
79-63 after the date the order of the advisory board [~~department~~]  
79-64 requiring the payment of expenses and costs is final. The advisory  
79-65 board [~~department~~] may refer the matter to the attorney general for  
79-66 collection of the expenses and costs.

79-67 (c) If the attorney general brings an action against a  
79-68 person to enforce an administrative penalty assessed under this  
79-69 chapter and the person is found liable for an administrative

80-1 penalty, the attorney general may recover, on behalf of the  
80-2 attorney general and the advisory board [~~department~~], reasonable  
80-3 expenses and costs.

80-4 SECTION 2.046. Sections 601.401(a) and (c), Occupations  
80-5 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
80-6 Session, 2015, are amended to read as follows:

80-7 (a) If it appears that a person has violated, is violating,  
80-8 or is threatening to violate this chapter or a rule adopted under  
80-9 this chapter, the advisory board [~~department~~] may bring an action  
80-10 to enjoin the continued or threatened violation.

80-11 (c) At the request of the advisory board [~~department~~], the  
80-12 attorney general shall bring an action in the name of the state for  
80-13 the injunctive relief, to recover the civil penalty, or both.

80-14 SECTION 2.047. Section 601.402(a), Occupations Code, is  
80-15 amended to read as follows:

80-16 (a) A person who is required to be certified under this  
80-17 chapter commits an offense if the person:

80-18 (1) knowingly administers a radiologic procedure to  
80-19 another person without holding a valid certificate issued by the  
80-20 advisory board [~~department~~];

80-21 (2) practices radiologic technology without holding a  
80-22 certificate under this chapter;

80-23 (3) uses or attempts to use a suspended or revoked  
80-24 certificate;

80-25 (4) knowingly allows a student enrolled in an  
80-26 education program to perform a radiologic procedure without direct  
80-27 supervision;

80-28 (5) obtains or attempts to obtain a certificate  
80-29 through bribery or fraudulent misrepresentation;

80-30 (6) uses the title or name "certified medical  
80-31 radiologic technologist" or any other name or title that implies  
80-32 the person is certified to practice radiologic technology, unless  
80-33 the person is certified under this chapter;

80-34 (7) knowingly conceals information relating to  
80-35 enforcement of this chapter or a rule adopted under this chapter; or

80-36 (8) employs a person not certified by or in compliance  
80-37 with this chapter for the purpose of applying ionizing radiation to  
80-38 a person.

80-39 SECTION 2.048. Section 602.002, Occupations Code, is  
80-40 amended by amending Subdivision (1), as amended by S.B. 219, Acts of  
80-41 the 84th Legislature, Regular Session, 2015, amending Subdivision  
80-42 (4), and adding Subdivision (5-a) to read as follows:

80-43 (1) "Advisory committee" [~~"Board"~~] means the Medical  
80-44 Physicist [~~Texas Board of~~] Licensure Advisory Committee [~~for~~  
80-45 ~~Professional Medical Physicists~~].

80-46 (4) "License" means a certificate issued by the  
80-47 medical board that authorizes the holder to engage in the practice  
80-48 of medical physics.

80-49 (5-a) "Medical board" means the Texas Medical Board.

80-50 SECTION 2.049. The heading to Subchapter B, Chapter 602,  
80-51 Occupations Code, is amended to read as follows:

80-52 SUBCHAPTER B. MEDICAL PHYSICIST [~~TEXAS BOARD OF~~] LICENSURE  
80-53 ADVISORY COMMITTEE [~~FOR PROFESSIONAL MEDICAL PHYSICISTS~~]

80-54 SECTION 2.050. Section 602.051, Occupations Code, is  
80-55 amended to read as follows:

80-56 Sec. 602.051. ADVISORY COMMITTEE [~~BOARD~~]. (a) The  
80-57 advisory committee [~~Texas Board of Licensure for Professional~~  
80-58 ~~Medical Physicists~~] is an informal advisory committee to the  
80-59 medical board and is not subject to Chapter 2110, Government Code  
80-60 [~~the division of the department responsible for regulating the~~  
80-61 ~~practice of medical physics~~].

80-62 (b) The advisory committee has no independent rulemaking  
80-63 authority.

80-64 SECTION 2.051. The heading to Section 602.052, Occupations  
80-65 Code, is amended to read as follows:

80-66 Sec. 602.052. APPOINTMENT OF ADVISORY COMMITTEE [~~BOARD~~  
80-67 ~~MEMBERS~~].

80-68 SECTION 2.052. Sections 602.052(a) and (d), Occupations  
80-69 Code, are amended to read as follows:

81-1 (a) The advisory committee [~~board~~] consists of seven [~~nine~~]  
 81-2 members appointed by the president of the medical board [~~governor~~  
 81-3 ~~with the advice and consent of the senate~~] as follows:

81-4 (1) four [~~five licensed~~] medical physicists licensed  
 81-5 in this state who each have at least five years of experience as a  
 81-6 medical physicist [~~, with at least one board certified~~  
 81-7 ~~representative of each of the following specialties:~~

- 81-8 [~~(A) diagnostic radiological physics,~~
- 81-9 [~~(B) medical health physics,~~
- 81-10 [~~(C) medical nuclear physics, and~~
- 81-11 [~~(D) therapeutic radiological physics~~];

81-12 (2) two [~~three~~] physicians licensed in this state who  
 81-13 each have at least five years of clinical experience related to  
 81-14 medical physics [~~, with a board certified representative of each of~~  
 81-15 ~~the following specialties:~~

- 81-16 [~~(A) diagnostic radiology,~~
- 81-17 [~~(B) nuclear medicine, and~~
- 81-18 [~~(C) radiation therapy~~]; and

81-19 (3) one member who represents the public.

81-20 (d) Appointments to the advisory committee [~~board~~] shall be  
 81-21 made without regard to the race, color, disability, creed, sex,  
 81-22 religion, age, or national origin of the appointee.

81-23 SECTION 2.053. The heading to Section 602.053, Occupations  
 81-24 Code, is amended to read as follows:

81-25 Sec. 602.053. PUBLIC MEMBER [~~BOARD MEMBERSHIP,~~]  
 81-26 ELIGIBILITY.

81-27 SECTION 2.054. Section 602.053(d), Occupations Code, is  
 81-28 amended to read as follows:

81-29 (d) An advisory committee [~~A public board~~] member  
 81-30 representing the public must be a resident of this [~~the~~] state for a  
 81-31 period of not less than four years preceding appointment. A person  
 81-32 may not be a [~~public~~] member of the advisory committee representing  
 81-33 the public [~~board~~] if the person or the person's spouse:

81-34 (1) is registered, certified, or licensed by a  
 81-35 regulatory agency in a health care profession [~~the field of medical~~  
 81-36 ~~physics~~];

81-37 (2) is employed by or participates in the management  
 81-38 of a business entity or other organization regulated by or  
 81-39 receiving money from the medical board;

81-40 (3) owns or controls, directly or indirectly, more  
 81-41 than a 10 percent interest in a business entity or other  
 81-42 organization regulated by or receiving money from the medical  
 81-43 board; or

81-44 (4) uses or receives a substantial amount of tangible  
 81-45 goods, services, or money from the medical board other than  
 81-46 compensation or reimbursement authorized by law for medical board  
 81-47 membership, attendance, or expenses.

81-48 SECTION 2.055. Sections 602.054(b) and (c), Occupations  
 81-49 Code, are amended to read as follows:

81-50 (b) A person may not be a member of the advisory committee  
 81-51 [~~board~~] if:

81-52 (1) the person is an officer, employee, or paid  
 81-53 consultant of a Texas trade association in the field of medicine; or

81-54 (2) the person's spouse is an officer, manager, or paid  
 81-55 consultant of a Texas trade association in the field of medicine.

81-56 (c) A person may not serve as a member of the advisory  
 81-57 committee [~~board~~] if the person is required to register as a  
 81-58 lobbyist under Chapter 305, Government Code, because of the  
 81-59 person's activities for compensation on behalf of a profession  
 81-60 related to the operation of the advisory committee or medical  
 81-61 board.

81-62 SECTION 2.056. Section 602.055, Occupations Code, is  
 81-63 amended to read as follows:

81-64 Sec. 602.055. TERMS; VACANCY. (a) Members of the advisory  
 81-65 committee [~~board~~] serve two-year [~~staggered six-year~~] terms. The  
 81-66 terms of the [~~three~~] members expire on February 1 of each  
 81-67 odd-numbered year.

81-68 (b) A person is not eligible to serve more than two [~~one~~]  
 81-69 consecutive full terms [~~six-year term~~]. [~~A person may serve~~

82-1 ~~consecutively one six-year term and a shorter term that arises~~  
 82-2 ~~because of filling an unexpired vacancy.]~~

82-3 (c) If a vacancy occurs during a member's term [~~on the~~  
 82-4 ~~board~~], the president of the medical board [~~governor~~] shall appoint  
 82-5 a person to serve for the unexpired term.

82-6 SECTION 2.057. Sections 602.056(a) and (b), Occupations  
 82-7 Code, are amended to read as follows:

82-8 (a) It is a ground for removal from the advisory committee  
 82-9 [~~board~~] that a member:

82-10 (1) does not have at the time of appointment the  
 82-11 qualifications required by Section 602.052 [~~602.053~~] for  
 82-12 appointment to the advisory committee [~~board~~];

82-13 (2) does not maintain during service on the advisory  
 82-14 committee [~~board~~] the qualifications required by Section 602.052  
 82-15 [~~602.053~~] for appointment to the advisory committee [~~board~~];

82-16 (3) is ineligible for membership under Section  
 82-17 602.053(d) or Section 602.054; or

82-18 (4) cannot, because of illness or disability,  
 82-19 discharge the member's duties for a substantial part of the member's  
 82-20 term[~~, or~~

82-21 [~~(5) does not attend at least half of the regularly~~  
 82-22 ~~scheduled board meetings held in a calendar year, excluding~~  
 82-23 ~~meetings held while the person was not a board member, without an~~  
 82-24 ~~excuse approved by the board].~~

82-25 (b) The validity of an [~~A board~~] action of the advisory  
 82-26 committee is not affected by the fact that it is taken while a  
 82-27 ground for removal of a member of the advisory committee [~~board~~]  
 82-28 exists [~~is not invalid for that reason~~].

82-29 SECTION 2.058. Section 602.057, Occupations Code, is  
 82-30 amended to read as follows:

82-31 Sec. 602.057. COMPENSATION. A member of the advisory  
 82-32 committee [~~board~~] is entitled to a per diem in an amount set by the  
 82-33 legislature for each day that the member engages in the business of  
 82-34 the advisory committee [~~board~~].

82-35 SECTION 2.059. Section 602.058, Occupations Code, is  
 82-36 amended to read as follows:

82-37 Sec. 602.058. ADVISORY COMMITTEE [~~BOARD~~] OFFICERS;  
 82-38 MEETINGS. (a) The president of the medical board [~~governor~~] shall  
 82-39 biennially designate a member of the advisory committee [~~board~~]  
 82-40 as the presiding officer of the advisory committee [~~board~~] to serve in  
 82-41 that capacity at the will of the president [~~governor~~]. The advisory  
 82-42 committee may [~~At the first regularly scheduled meeting of each~~  
 82-43 ~~calendar year, the board shall~~] elect from its members additional  
 82-44 officers as necessary [~~an assistant presiding officer~~].

82-45 (b) The advisory committee [~~board~~] shall meet as requested  
 82-46 by the medical board. A meeting may be held by telephone conference  
 82-47 call [~~hold a meeting at least once a year and at other times in~~  
 82-48 ~~accordance with board rule~~].

82-49 (c) Except as otherwise provided by this chapter, the  
 82-50 advisory committee is subject to Chapters 551, 552, and 2001,  
 82-51 Government Code.

82-52 (d) A majority of the advisory committee members  
 82-53 constitutes a quorum for all purposes except when advisory  
 82-54 committee members are participating in a proceeding of the medical  
 82-55 board as described by Section 602.151(b).

82-56 SECTION 2.060. The heading to Subchapter D, Chapter 602,  
 82-57 Occupations Code, is amended to read as follows:

82-58 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

82-59 SECTION 2.061. Section 602.151, Occupations Code, as  
 82-60 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 82-61 2015, is amended to read as follows:

82-62 Sec. 602.151. GENERAL POWERS AND DUTIES. (a) The medical  
 82-63 board shall:

82-64 (1) adopt [~~and revise, with the approval of the~~  
 82-65 ~~executive commissioner of the Health and Human Services~~  
 82-66 ~~Commission~~], rules reasonably necessary to properly perform its  
 82-67 duties under this chapter, including:

82-68 (A) procedural rules governing investigations,  
 82-69 informal hearings, the issuance of cease and desist orders, and

83-1 disciplinary sanctions; and  
83-2 (B) rules governing character and conduct for  
83-3 applicants or license holders and fitness to practice medical  
83-4 physics in this state;  
83-5 (2) establish [adopt an official seal,  
83-6 [~~(3) determine the~~] qualifications for a medical  
83-7 physicist to practice in this state and the fitness of each  
83-8 applicant for a license or license renewal;  
83-9 (3) establish minimum education and training  
83-10 requirements necessary for a license under this chapter;  
83-11 (4) establish requirements for [charge a fee for  
83-12 processing and issuing or renewing a license,  
83-13 [~~(5) conduct~~] examinations for licensure;  
83-14 (5) prescribe the application form for a license under  
83-15 this chapter;  
83-16 (6) issue, deny, renew, revoke, cancel, restrict,  
83-17 [and] suspend, or accept the surrender of a license [licenses];  
83-18 (7) charge fees that are reasonable and necessary to  
83-19 cover the costs of administering this chapter [adopt and publish a  
83-20 code of ethics]; [and]  
83-21 (8) conduct informal hearings [on complaints]  
83-22 concerning violations of this chapter or rules adopted under this  
83-23 chapter;  
83-24 (9) issue disciplinary sanctions, including agreed  
83-25 orders and non-disciplinary remedial plans; and  
83-26 (10) establish procedures for making a confidential  
83-27 referral to the Texas Physician Health Program established under  
83-28 Chapter 167, and for requiring participation in the program as a  
83-29 prerequisite for issuing or maintaining a license under this  
83-30 chapter.  
83-31 (b) The medical board may include any member of the advisory  
83-32 committee in a proceeding of the medical board related to a power or  
83-33 duty described by Subsection (a) if the medical board considers the  
83-34 expertise of the advisory committee member to be beneficial in the  
83-35 proceeding.  
83-36 SECTION 2.062. Section 602.152, Occupations Code, is  
83-37 amended to read as follows:  
83-38 Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS.  
83-39 (a) The medical board shall prepare information of consumer  
83-40 interest describing the regulatory functions of the medical board  
83-41 and the procedures by which complaints are filed with and resolved  
83-42 by the medical board.  
83-43 (b) The medical board shall maintain a file on each written  
83-44 complaint filed with the medical board. The file must include:  
83-45 (1) the name of the person who filed the complaint;  
83-46 (2) the date the complaint is received by the medical  
83-47 board;  
83-48 (3) the subject matter of the complaint;  
83-49 (4) the name of each person contacted in relation to  
83-50 the complaint;  
83-51 (5) a summary of the results of the review or  
83-52 investigation of the complaint; and  
83-53 (6) an explanation of the reason the file was closed,  
83-54 if the medical board closed the file without taking action other  
83-55 than to investigate the complaint.  
83-56 (c) The medical board shall provide to the person filing the  
83-57 complaint and to each person who is a subject of the complaint a  
83-58 copy of the medical board's policies and procedures relating to  
83-59 complaint investigation and resolution.  
83-60 (d) The medical board, at least quarterly until final  
83-61 disposition of the complaint, shall notify the person filing the  
83-62 complaint and each person who is a subject of the complaint of the  
83-63 status of the complaint unless the notice would jeopardize an  
83-64 undercover investigation.  
83-65 SECTION 2.063. Section 602.1521, Occupations Code, is  
83-66 amended to read as follows:  
83-67 Sec. 602.1521. PUBLIC PARTICIPATION. The medical board  
83-68 shall develop and implement policies that provide the public with a  
83-69 reasonable opportunity to appear before the medical board and to

84-1 speak on any issue relating to medical physicists [~~under the~~  
84-2 ~~jurisdiction of the board~~].

84-3 SECTION 2.064. The heading to Section 602.1525, Occupations  
84-4 Code, is amended to read as follows:

84-5 Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

84-6 SECTION 2.065. Section 602.1525, Occupations Code, is  
84-7 amended by amending Subsection (a), as amended by S.B. 219, Acts of  
84-8 the 84th Legislature, Regular Session, 2015, amending Subsections  
84-9 (h) and (i), and adding Subsection (a-1) to read as follows:

84-10 (a) The executive director of the medical board, the  
84-11 director's designee, or the secretary-treasurer of the medical  
84-12 board may issue [~~In an investigation of a complaint filed with the~~  
84-13 ~~board, the board may request that the commissioner or the~~  
84-14 ~~commissioner's designee approve the issuance of]~~ a subpoena or  
84-15 subpoena duces tecum:

84-16 (1) to conduct an investigation or a contested case  
84-17 proceeding related to:

84-18 (A) alleged misconduct by a medical physicist;

84-19 (B) an alleged violation of this chapter or  
84-20 another law related to the practice of medical physics; or

84-21 (C) the provision of health care under this  
84-22 chapter; or

84-23 (2) for purposes of determining whether to issue,  
84-24 suspend, restrict, or revoke a license under this chapter [~~. If the~~  
84-25 ~~request is approved, the board may issue a subpoena to compel the~~  
84-26 ~~attendance of a relevant witness or the production, for inspection~~  
84-27 ~~or copying, of relevant evidence that is in this state].~~

84-28 (a-1) Failure to timely comply with a subpoena issued under  
84-29 this section is a ground for:

84-30 (1) disciplinary action by the medical board or  
84-31 another licensing or regulatory agency with jurisdiction over the  
84-32 person subject to the subpoena; and

84-33 (2) denial of a license application.

84-34 (h) All information and materials subpoenaed or compiled by  
84-35 the medical board in connection with a complaint and investigation  
84-36 are confidential and not subject to disclosure under Chapter 552,  
84-37 Government Code, and not subject to disclosure, discovery,  
84-38 subpoena, or other means of legal compulsion for their release to  
84-39 anyone other than the medical board or its agents or employees who  
84-40 are involved in discipline of the holder of a license, except that  
84-41 this information may be disclosed to:

84-42 (1) persons involved with the medical board in a  
84-43 disciplinary action against the holder of a license;

84-44 (2) professional medical physics licensing or  
84-45 disciplinary boards in other jurisdictions;

84-46 (3) peer assistance programs approved by the medical  
84-47 board under Chapter 467, Health and Safety Code;

84-48 (4) law enforcement agencies; and

84-49 (5) persons engaged in bona fide research, if all  
84-50 individual-identifying information has been deleted.

84-51 (i) The filing of formal charges by the medical board  
84-52 against a holder of a license, the nature of those charges,  
84-53 disciplinary proceedings of the medical board, and final  
84-54 disciplinary actions, including warnings and reprimands, by the  
84-55 medical board are not confidential and are subject to disclosure in  
84-56 accordance with Chapter 552, Government Code.

84-57 SECTION 2.066. Section 602.153, Occupations Code, is  
84-58 amended to read as follows:

84-59 Sec. 602.153. CONTINUING EDUCATION. The medical board  
84-60 shall recognize, prepare, or administer continuing education  
84-61 programs for persons licensed under this chapter [~~by the board~~]. A  
84-62 license holder must participate in the programs to the extent  
84-63 required by the medical board to keep the person's license.

84-64 SECTION 2.067. Section 602.154, Occupations Code, is  
84-65 amended to read as follows:

84-66 Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE  
84-67 BIDDING. (a) The medical board may not adopt rules restricting  
84-68 advertising or competitive bidding by a license holder except to  
84-69 prohibit false, misleading, or deceptive practices.

85-1 (b) In its rules to prohibit false, misleading, or deceptive  
85-2 practices, the medical board may not include a rule that:

- 85-3 (1) restricts the use of any medium for advertising;  
85-4 (2) restricts the use of a license holder's personal  
85-5 appearance or voice in an advertisement;  
85-6 (3) relates to the size or duration of an  
85-7 advertisement by the license holder; or  
85-8 (4) restricts the license holder's advertisement under  
85-9 a trade name.

85-10 SECTION 2.068. Subchapter D, Chapter 602, Occupations Code,  
85-11 is amended by adding Section 602.156 to read as follows:

85-12 Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.  
85-13 The medical board shall adopt rules and guidelines as necessary to  
85-14 comply with Chapter 53, except to the extent the requirements of  
85-15 this chapter are stricter than the requirements of Chapter 53.

85-16 SECTION 2.069. Section 602.203, Occupations Code, is  
85-17 amended to read as follows:

85-18 Sec. 602.203. LICENSE APPLICATION. (a) A person may apply  
85-19 for a license by filing an application with the medical board.

85-20 (b) An application must be on a form prescribed by the  
85-21 medical board and must include:

- 85-22 (1) evidence of relevant work experience, including a  
85-23 description of the duties performed;  
85-24 (2) an official transcript from the college or  
85-25 university granting the applicant's degree;  
85-26 (3) a statement of the medical physics specialty for  
85-27 which the application is submitted;  
85-28 (4) three professional references; and  
85-29 (5) any additional information required by medical  
85-30 board rule.

85-31 (c) The applicant must submit with the application the fee  
85-32 prescribed by the medical board.

85-33 (d) The medical board [~~or the executive secretary~~] may  
85-34 require an applicant to appear before the medical board [~~or~~  
85-35 ~~secretary~~] to present additional information in support of the  
85-36 application.

85-37 SECTION 2.070. Section 602.205, Occupations Code, as  
85-38 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
85-39 2015, is amended to read as follows:

85-40 Sec. 602.205. TEMPORARY LICENSE. The medical board may  
85-41 issue a temporary license to an applicant who has satisfied the  
85-42 educational requirements for a license but who has not yet  
85-43 completed the experience and examination requirements of Section  
85-44 602.207. A temporary license is valid for one year from the date of  
85-45 issuance.

85-46 SECTION 2.071. Section 602.206(a), Occupations Code, is  
85-47 amended to read as follows:

85-48 (a) The medical board shall administer a written  
85-49 examination for a license to qualified applicants at least two  
85-50 times each year.

85-51 SECTION 2.072. Section 602.207(a), Occupations Code, is  
85-52 amended to read as follows:

85-53 (a) To be eligible to take an examination for a license, an  
85-54 applicant must:

- 85-55 (1) have a master's or doctoral degree from an  
85-56 accredited college or university that signifies the completion of  
85-57 courses approved by the medical board in physics, medical physics,  
85-58 biophysics, radiological physics, medical health physics, or  
85-59 equivalent courses;  
85-60 (2) have demonstrated, to the medical board's  
85-61 satisfaction, completion of at least two years of full-time work  
85-62 experience in the five years preceding the date of application in  
85-63 the medical physics specialty for which application is made; and  
85-64 (3) submit a completed application as required by  
85-65 Section 602.203.

85-66 SECTION 2.073. Section 602.208, Occupations Code, is  
85-67 amended to read as follows:

85-68 Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION.  
85-69 (a) The medical board shall notify each examinee of the results of

86-1 the examination not later than the 30th day after the date the  
 86-2 examination is administered. If an examination is graded or  
 86-3 reviewed by a national or state testing service, the medical board  
 86-4 shall notify each examinee of the results of the examination not  
 86-5 later than the 14th day after the date the medical board receives  
 86-6 the results from the testing service.

86-7 (b) If the medical board learns that the notice of the  
 86-8 examination results will be delayed for more than 90 days after the  
 86-9 examination date, the medical board shall notify each examinee of  
 86-10 the reason for the delay not later than the 90th day.

86-11 (c) If requested by a person who fails the examination, the  
 86-12 medical board shall provide to the person an analysis of the  
 86-13 person's performance on the examination.

86-14 (d) The medical board by rule shall establish procedures and  
 86-15 requirements for reexamination of an applicant who fails the  
 86-16 examination.

86-17 SECTION 2.074. Subchapter E, Chapter 602, Occupations Code,  
 86-18 is amended by adding Section 602.2081 to read as follows:

86-19 Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION  
 86-20 REQUIREMENT FOR LICENSE. (a) The medical board shall require that  
 86-21 an applicant for a license submit a complete and legible set of  
 86-22 fingerprints, on a form prescribed by the medical board, to the  
 86-23 medical board or to the Department of Public Safety for the purpose  
 86-24 of obtaining criminal history record information from the  
 86-25 Department of Public Safety and the Federal Bureau of  
 86-26 Investigation.

86-27 (b) The medical board may not issue a license to a person who  
 86-28 does not comply with the requirement of Subsection (a).

86-29 (c) The medical board shall conduct a criminal history check  
 86-30 of each applicant for a license using information:

86-31 (1) provided by the individual under this section; and

86-32 (2) made available to the medical board by the  
 86-33 Department of Public Safety, the Federal Bureau of Investigation,  
 86-34 and any other criminal justice agency under Chapter 411, Government  
 86-35 Code.

86-36 (d) The medical board may:

86-37 (1) enter into an agreement with the Department of  
 86-38 Public Safety to administer a criminal history check required under  
 86-39 this section; and

86-40 (2) authorize the Department of Public Safety to  
 86-41 collect from each applicant the costs incurred by the Department of  
 86-42 Public Safety in conducting the criminal history check.

86-43 SECTION 2.075. Sections 602.209(a), (b), (c), and (e),  
 86-44 Occupations Code, are amended to read as follows:

86-45 (a) The medical board may issue a license to an eligible  
 86-46 applicant who:

86-47 (1) passes the examination under Section 602.206; and

86-48 (2) meets all other license requirements.

86-49 (b) Not later than the 30th day after the date the medical  
 86-50 board makes a decision on an application submitted under Section  
 86-51 602.203, the medical board shall notify the applicant of the  
 86-52 decision.

86-53 (c) If the medical board approves the application, the  
 86-54 medical board shall issue a license to the applicant. If the  
 86-55 medical board denies the application, the medical board shall  
 86-56 include in the notice of decision a description of the areas of  
 86-57 deficiency.

86-58 (e) A license certificate is the medical board's property  
 86-59 and must be surrendered on demand.

86-60 SECTION 2.076. Section 602.210, Occupations Code, is  
 86-61 amended by amending Subsections (b), (c), (d), (e), and (f) and  
 86-62 adding Subsection (g) to read as follows:

86-63 (b) The medical board by rule may adopt a system under which  
 86-64 licenses expire on various dates during the year.

86-65 (c) A person may renew an unexpired license by paying the  
 86-66 required renewal fee to the medical board before the expiration  
 86-67 date of the license.

86-68 (d) If a person's license has been expired for 90 days or  
 86-69 less, the person may renew the license by paying to the medical

87-1 board the required renewal fee and a penalty fee in an amount equal  
87-2 to one-half of the amount of the renewal fee.

87-3 (e) If a person's license has been expired for longer than  
87-4 90 days but less than one year [~~two years~~], the person may renew the  
87-5 license by paying to the medical board the renewal fee that was due  
87-6 at expiration and a penalty fee in an amount equal to the amount of  
87-7 the renewal fee.

87-8 (f) If a person's license has been expired for one year [~~two~~  
87-9 ~~years~~] or longer, the person may not renew the license. To obtain a  
87-10 new license, a person must comply with the requirements and  
87-11 procedures for obtaining an original license, including the  
87-12 examination requirement [~~application requirements of this chapter~~  
87-13 ~~and must submit to the board:~~

87-14 [~~(1) a supplemental experience record as required by~~  
87-15 ~~the board;~~

87-16 [~~(2) a description of professional activities~~  
87-17 ~~undertaken during the expiration period;~~

87-18 [~~(3) a list of current professional references; and~~

87-19 [~~(4) a transcript for any degree or college credit~~  
87-20 ~~earned since the person's previous license application].~~

87-21 (g) Not later than the 30th day before the date a person's  
87-22 license expires, the medical board shall send written notice of the  
87-23 impending license expiration to the person at the license holder's  
87-24 last known address according to the records of the medical board.

87-25 SECTION 2.077. Subchapter E, Chapter 602, Occupations Code,  
87-26 is amended by adding Section 602.2101 to read as follows:

87-27 Sec. 602.2101. CRIMINAL HISTORY RECORD INFORMATION  
87-28 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license  
87-29 shall submit a complete and legible set of fingerprints for  
87-30 purposes of performing a criminal history check of the applicant as  
87-31 provided by Section 602.2081.

87-32 (b) The medical board may not renew the license of a person  
87-33 who does not comply with the requirement of Subsection (a).

87-34 (c) A license holder is not required to submit fingerprints  
87-35 under this section for the renewal of the license if the license  
87-36 holder has previously submitted fingerprints under:

87-37 (1) Section 602.2081 for the initial issuance of the  
87-38 license; or

87-39 (2) this section as part of a prior renewal of the  
87-40 license.

87-41 SECTION 2.078. Section 602.211, Occupations Code, is  
87-42 amended to read as follows:

87-43 Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY.

87-44 (a) On receipt of an application and fee under Section 602.203,  
87-45 the medical board may waive any prerequisite for obtaining a  
87-46 license to a person who holds a license to practice medical or  
87-47 radiological physics in another state, territory, or jurisdiction  
87-48 acceptable to the medical board that has requirements for the  
87-49 licensing of medical or radiological physicists that are  
87-50 substantially the same as the requirements of this chapter.

87-51 (b) The medical board may waive any prerequisite for  
87-52 obtaining a license to practice medical physics in this state for an  
87-53 applicant who holds a license issued by another jurisdiction with  
87-54 which this state has a reciprocity agreement. The medical board may  
87-55 make an agreement, subject to the approval of the governor, with  
87-56 another state to allow for licensing by reciprocity.

87-57 SECTION 2.079. Section 602.212, Occupations Code, is  
87-58 amended to read as follows:

87-59 Sec. 602.212. LICENSE HOLDER DUTIES. A license holder  
87-60 shall:

87-61 (1) publicly display the license holder's license in  
87-62 an appropriate manner; and

87-63 (2) report immediately to the medical board any change  
87-64 in the license holder's address.

87-65 SECTION 2.080. Section 602.213, Occupations Code, as  
87-66 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
87-67 2015, is amended to read as follows:

87-68 Sec. 602.213. PROVISIONAL LICENSE. (a) The medical board  
87-69 may issue a provisional license to an applicant currently licensed

88-1 or certified in another jurisdiction who seeks a license in this  
88-2 state and who:

88-3 (1) has been licensed or certified in good standing as  
88-4 a practitioner of medical or radiologic physics for at least two  
88-5 years in another jurisdiction, including a foreign country, that  
88-6 has licensing or certification requirements substantially  
88-7 equivalent to the requirements of this chapter;

88-8 (2) has passed a national or other examination  
88-9 recognized by the medical board relating to the practice of medical  
88-10 or radiologic physics; and

88-11 (3) is sponsored by a person licensed by the medical  
88-12 board under this chapter with whom the provisional license holder  
88-13 will practice during the time the person holds a provisional  
88-14 license.

88-15 (b) The medical board may waive the requirement of  
88-16 Subsection (a)(3) for an applicant if the medical board determines  
88-17 that compliance with that subsection would be a hardship to the  
88-18 applicant.

88-19 (c) A provisional license is valid until the date the  
88-20 medical board approves or denies the provisional license holder's  
88-21 application for a license. The medical board shall issue a license  
88-22 under this chapter to the provisional license holder if:

88-23 (1) the provisional license holder is eligible to be  
88-24 certified under Section 602.211; or

88-25 (2) the provisional license holder passes the part of  
88-26 the examination under Section 602.206 that relates to the  
88-27 applicant's knowledge and understanding of the laws and rules  
88-28 relating to the practice of medical physics in this state and:

88-29 (A) the medical board verifies that the  
88-30 provisional license holder meets the academic and experience  
88-31 requirements for a license under this chapter; and

88-32 (B) the provisional license holder satisfies any  
88-33 other licensing requirements under this chapter.

88-34 (d) The medical board must approve or deny a provisional  
88-35 license holder's application for a license not later than the 180th  
88-36 day after the date the provisional license is issued. The medical  
88-37 board may extend the 180-day period if the results of an examination  
88-38 have not been received by the medical board before the end of that  
88-39 period.

88-40 (e) The medical board may establish a fee for provisional  
88-41 licenses.

88-42 SECTION 2.081. Section 602.251, Occupations Code, is  
88-43 amended to read as follows:

88-44 Sec. 602.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY  
88-45 ACTION. The medical board may [~~shall~~] refuse to issue or renew a  
88-46 license, suspend, restrict, or revoke a license, or reprimand a  
88-47 license holder for:

88-48 (1) obtaining or renewing a license by means of fraud,  
88-49 misrepresentation, or concealment of a material fact;

88-50 (2) having previously applied for or held a license  
88-51 issued by the licensing authority of another state, territory, or  
88-52 jurisdiction that was denied, suspended, or revoked by that  
88-53 licensing authority;

88-54 (3) engaging in unprofessional conduct that  
88-55 endangered or is likely to endanger the health, safety, or welfare  
88-56 of the public as defined by medical board rule;

88-57 (4) violating this chapter, a lawful order or rule of  
88-58 the medical board, or the medical board's code of ethics; or

88-59 (5) being convicted of:

88-60 (A) a felony; or

88-61 (B) a misdemeanor involving moral turpitude or  
88-62 that directly relates to the person's duties as a licensed medical  
88-63 physicist.

88-64 SECTION 2.082. Section 602.252, Occupations Code, is  
88-65 amended to read as follows:

88-66 Sec. 602.252. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE  
88-67 HEARING. Chapter [~~Chapters~~] 2001 [~~and 2002~~], Government Code, and  
88-68 medical board rules for a contested case hearing apply to a  
88-69 proceeding by the medical board under this chapter in which a formal

89-1 complaint has been filed [subchapter].

89-2 SECTION 2.083. Subchapter F, Chapter 602, Occupations Code,  
89-3 is amended by adding Section 602.2521 to read as follows:

89-4 Sec. 602.2521. INFORMAL PROCEDURES. (a) The medical board  
89-5 by rule shall adopt procedures governing:

89-6 (1) informal disposition of a contested case under  
89-7 Section 2001.056, Government Code; and

89-8 (2) informal proceedings held in compliance with  
89-9 Section 2001.054, Government Code.

89-10 (b) Rules adopted under Subsection (a) must:

89-11 (1) provide the complainant, if applicable and  
89-12 permitted by law, an opportunity to be heard;

89-13 (2) provide the license holder an opportunity to be  
89-14 heard; and

89-15 (3) require the medical board's legal counsel or a  
89-16 representative of the attorney general to be present to advise the  
89-17 medical board or the medical board's employees.

89-18 (c) Chapters 551 and 552, Government Code, do not apply to  
89-19 an investigation file and investigative information in the  
89-20 possession of or used by the medical board in an informal proceeding  
89-21 under this section.

89-22 SECTION 2.084. Section 602.253, Occupations Code, is  
89-23 amended to read as follows:

89-24 Sec. 602.253. PROBATION. The medical board may place on  
89-25 probation a person whose license is suspended. If a license  
89-26 suspension is probated, the medical board may require the person  
89-27 to:

89-28 (1) report regularly to the medical board [~~department~~]  
89-29 on matters that are the basis of the probation;

89-30 (2) limit practice to the areas prescribed by the  
89-31 medical board; or

89-32 (3) continue or review professional education until  
89-33 the person attains a degree of skill satisfactory to the medical  
89-34 board in those areas that are the basis of the probation.

89-35 SECTION 2.085. Section 602.254(a), Occupations Code, is  
89-36 amended to read as follows:

89-37 (a) The medical board or a three-member panel [~~committee~~]  
89-38 medical board members designated by the president of the medical  
89-39 board shall temporarily suspend the license of a license holder if  
89-40 the medical board or panel [~~committee~~] determines from the evidence  
89-41 or information presented to it that continued practice by the  
89-42 license holder would constitute a continuing and imminent threat to  
89-43 the public welfare.

89-44 SECTION 2.086. Section 602.301, Occupations Code, is  
89-45 amended to read as follows:

89-46 Sec. 602.301. INJUNCTION. The medical board shall  
89-47 prosecute or file suit to enjoin a violation of this chapter or a  
89-48 rule adopted under this chapter.

89-49 SECTION 2.087. Section 602.3015, Occupations Code, is  
89-50 amended to read as follows:

89-51 Sec. 602.3015. CIVIL PENALTY. (a) A person who violates  
89-52 this chapter or a rule adopted or order issued [~~adopted by the~~  
89-53 ~~board~~] under this chapter is liable for a civil penalty not to  
89-54 exceed \$5,000 a day.

89-55 (b) At the request of the medical board, the attorney  
89-56 general shall bring an action to recover a civil penalty authorized  
89-57 under this section.

89-58 SECTION 2.088. Sections 602.351(a), (e), (g), (h), (i),  
89-59 (j), (k), and (l), Occupations Code, are amended to read as follows:

89-60 (a) The medical board may impose an administrative penalty  
89-61 on a person licensed under this chapter who violates this chapter or  
89-62 a rule adopted or order issued [~~adopted~~] under this chapter. A  
89-63 penalty collected under this subchapter shall be deposited in the  
89-64 state treasury in the general revenue fund.

89-65 (e) If the medical board [~~executive secretary~~] determines  
89-66 that a violation occurred, the medical board [~~executive secretary~~]  
89-67 shall give written notice [~~of the report~~] by certified mail to the  
89-68 person.

89-69 (g) Within 20 days after the date the person receives the

90-1 notice under Subsection (e), the person in writing may:

90-2 (1) accept the determination and recommended penalty  
90-3 [~~of the executive secretary~~]; or

90-4 (2) make a request for a hearing on the occurrence of  
90-5 the violation, the amount of the penalty, or both.

90-6 (h) If the person accepts the determination and recommended  
90-7 penalty or if the person fails to respond to the notice, the medical  
90-8 board by order shall approve the determination and impose the  
90-9 recommended penalty.

90-10 (i) If the person requests a hearing, the medical board  
90-11 shall refer the matter to the State Office of Administrative  
90-12 Hearings, which shall promptly set a hearing date and give written  
90-13 notice of the time and place of the hearing to the person. An  
90-14 administrative law judge of the State Office of Administrative  
90-15 Hearings shall conduct the hearing.

90-16 (j) The administrative law judge shall make findings of fact  
90-17 and conclusions of law and promptly issue to the medical board a  
90-18 proposal for a decision about the occurrence of the violation and  
90-19 the amount of a proposed penalty.

90-20 (k) Based on the findings of fact, conclusions of law, and  
90-21 proposal for a decision, the medical board by order may determine  
90-22 that:

90-23 (1) a violation occurred and impose a penalty; or

90-24 (2) a violation did not occur.

90-25 (1) The notice of the medical board's order under Subsection  
90-26 (k) that is sent to the person in accordance with Chapter 2001,  
90-27 Government Code, must include a statement of the right of the person  
90-28 to judicial review of the order.

90-29 SECTION 2.089. Sections 602.352(a), (b), and (c),  
90-30 Occupations Code, are amended to read as follows:

90-31 (a) Within 30 days after the date an order of the medical  
90-32 board under Section 602.351(k) that imposes an administrative  
90-33 penalty becomes final, the person shall:

90-34 (1) pay the penalty; or

90-35 (2) file a petition for judicial review of the medical  
90-36 board's order contesting the occurrence of the violation, the  
90-37 amount of the penalty, or both.

90-38 (b) Within the 30-day period prescribed by Subsection (a), a  
90-39 person who files a petition for judicial review may:

90-40 (1) stay enforcement of the penalty by:

90-41 (A) paying the penalty to the court for placement  
90-42 in an escrow account; or

90-43 (B) giving the court a supersedeas bond approved  
90-44 by the court that is:

90-45 (i) for the amount of the penalty; and

90-46 (ii) effective until all judicial review of  
90-47 the medical board's order is final; or

90-48 (2) request the court to stay enforcement of the  
90-49 penalty by:

90-50 (A) filing with the court a sworn affidavit of  
90-51 the person stating that the person is financially unable to pay the  
90-52 penalty and is financially unable to give the supersedeas bond; and

90-53 (B) sending a copy of the affidavit to the  
90-54 medical board by certified mail.

90-55 (c) If the medical board receives a copy of an affidavit  
90-56 under Subsection (b)(2), the medical board may file with the court,  
90-57 within five days after the date the copy is received, a contest to  
90-58 the affidavit. The court shall hold a hearing on the facts alleged  
90-59 in the affidavit as soon as practicable and shall stay the  
90-60 enforcement of the penalty on finding that the alleged facts are  
90-61 true. The person who files an affidavit has the burden of proving  
90-62 that the person is financially unable to pay the penalty or to give  
90-63 a supersedeas bond.

90-64 SECTION 2.090. Sections 603.002(2) and (3), Occupations  
90-65 Code, are amended to read as follows:

90-66 (2) "Advisory committee" [~~"Committee"~~] means the  
90-67 [~~Texas State~~] Perfusionist Licensure Advisory Committee.

90-68 (3) "Medical board" [~~"Department"~~] means the Texas  
90-69 Medical Board [~~Department of State Health Services~~].

91-1 SECTION 2.091. Section 603.006, Occupations Code, is  
 91-2 amended to read as follows:

91-3 Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110,  
 91-4 Government Code, does not apply to the advisory committee.

91-5 SECTION 2.092. The heading to Subchapter B, Chapter 603,  
 91-6 Occupations Code, is amended to read as follows:

91-7 SUBCHAPTER B. [~~TEXAS STATE~~] PERFUSIONIST LICENSURE ADVISORY  
 91-8 COMMITTEE

91-9 SECTION 2.093. Section 603.051, Occupations Code, as  
 91-10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 91-11 2015, is amended to read as follows:

91-12 Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) The  
 91-13 advisory committee is an informal advisory committee to the medical  
 91-14 board. The advisory committee has no independent rulemaking  
 91-15 authority.

91-16 (a-1) The advisory committee [Texas State Perfusionist  
 91-17 Advisory Committee] consists of seven [five] members appointed by  
 91-18 the president of the medical board [commissioner] as follows:

91-19 (1) four perfusionists licensed in this state [two  
 91-20 licensed perfusionist members] who each have [been licensed under  
 91-21 this chapter for] at least five [three] years of experience as a  
 91-22 perfusionist [before the date of appointment];

91-23 (2) two physicians [one physician member] licensed in  
 91-24 this state [by the Texas Medical Board] who supervise perfusionists  
 91-25 [is certified by that board in cardiovascular surgery]; and

91-26 (3) one member [two members] who represents  
 91-27 [represent] the public.

91-28 (b) Appointments to the advisory committee shall reflect  
 91-29 the historical and cultural diversity of the inhabitants of this  
 91-30 state.

91-31 (c) Appointments to the advisory committee shall be made  
 91-32 without regard to the race, color, disability, sex, religion, age,  
 91-33 or national origin of the appointee.

91-34 SECTION 2.094. Section 603.0511, Occupations Code, is  
 91-35 amended to read as follows:

91-36 Sec. 603.0511. PUBLIC MEMBER ELIGIBILITY [OF PUBLIC  
 91-37 MEMBERS]. A person may not be a public member of the advisory  
 91-38 committee if the person or the person's spouse:

91-39 (1) is registered, certified, or licensed by a  
 91-40 regulatory agency in a [the field of] health care profession;

91-41 (2) is employed by or participates in the management  
 91-42 of a business entity or other organization regulated by or  
 91-43 receiving money from the medical board [department];

91-44 (3) owns or controls, directly or indirectly, more  
 91-45 than a 10 percent interest in a business entity or other  
 91-46 organization regulated by or receiving money from the medical board  
 91-47 [department]; or

91-48 (4) uses or receives a substantial amount of tangible  
 91-49 goods, services, or money from the medical board [department] other  
 91-50 than compensation or reimbursement authorized by law for advisory  
 91-51 committee membership, attendance, or expenses.

91-52 SECTION 2.095. Sections 603.052(b) and (c), Occupations  
 91-53 Code, are amended to read as follows:

91-54 (b) A person may not be an advisory [a] committee member  
 91-55 [and may not be a department employee employed in a "bona fide  
 91-56 executive, administrative, or professional capacity," as that  
 91-57 phrase is used for purposes of establishing an exemption to the  
 91-58 overtime provisions of the federal Fair Labor Standards Act of 1938  
 91-59 (29 U.S.C. Section 201 et seq.)] if:

91-60 (1) the person is an officer, employee, or paid  
 91-61 consultant of a Texas trade association in the field of health care;  
 91-62 or

91-63 (2) the person's spouse is an officer, manager, or paid  
 91-64 consultant of a Texas trade association in the field of health care.

91-65 (c) A person may not be a member of the advisory committee or  
 91-66 act as the general counsel to the advisory committee [or the  
 91-67 department] if the person is required to register as a lobbyist  
 91-68 under Chapter 305, Government Code, because of the person's  
 91-69 activities for compensation on behalf of a profession related to

92-1 the operation of the advisory committee or medical board  
92-2 ~~[department]~~.

92-3 SECTION 2.096. Section 603.053, Occupations Code, is  
92-4 amended to read as follows:

92-5 Sec. 603.053. TERMS; VACANCY. (a) Members of the advisory  
92-6 committee serve two-year [staggered six-year] terms. The terms of  
92-7 the [one or two] members[, as appropriate,] expire on February 1 of  
92-8 each odd-numbered year.

92-9 (b) If a vacancy occurs during a member's term, the  
92-10 president of the medical board shall appoint a person to serve for  
92-11 the unexpired term.

92-12 SECTION 2.097. Sections 603.054(a) and (b), Occupations  
92-13 Code, are amended to read as follows:

92-14 (a) It is a ground for removal from the advisory committee  
92-15 that a member:

92-16 (1) does not have at the time of taking office the  
92-17 qualifications required by Section 603.051;

92-18 (2) does not maintain during service on the advisory  
92-19 committee the qualifications required by Section 603.051;

92-20 (3) is ineligible for membership under Section  
92-21 603.0511 or 603.052; or

92-22 (4) cannot, because of illness or disability,  
92-23 discharge the member's duties for a substantial part of the member's  
92-24 term~~[, or~~

92-25 ~~[(5) is absent from more than half of the regularly~~  
92-26 ~~scheduled committee meetings that the member is eligible to attend~~  
92-27 ~~during a calendar year without an excuse approved by a majority vote~~  
92-28 ~~of the committee].~~

92-29 (b) The validity of an action of the advisory committee is  
92-30 not affected by the fact that it is taken when a ground for removal  
92-31 of a member of the advisory committee exists.

92-32 SECTION 2.098. Section 603.056, Occupations Code, is  
92-33 amended to read as follows:

92-34 Sec. 603.056. OFFICERS. (a) The president of the medical  
92-35 board [Not later than the 30th day after the date the commissioner  
92-36 appoints new committee members, the commissioner] shall designate  
92-37 biennially an advisory committee member as the [a] presiding  
92-38 officer of the advisory committee to serve in that capacity at the  
92-39 will of the president. [The presiding officer serves at the  
92-40 pleasure of the commissioner.]

92-41 (b) The advisory committee may appoint additional officers  
92-42 as necessary.

92-43 SECTION 2.099. Section 603.057, Occupations Code, is  
92-44 amended to read as follows:

92-45 Sec. 603.057. MEETINGS. The advisory committee shall meet  
92-46 as requested by the medical board [subject to the call of the  
92-47 commissioner]. A meeting may be held by telephone conference call.

92-48 SECTION 2.100. The heading to Subchapter D, Chapter 603,  
92-49 Occupations Code, is amended to read as follows:

92-50 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

92-51 SECTION 2.101. Section 603.151, Occupations Code, as  
92-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
92-53 2015, is amended to read as follows:

92-54 Sec. 603.151. GENERAL POWERS AND DUTIES [OF DEPARTMENT].  
92-55 The medical board [department] shall:

92-56 (1) establish the qualifications for a perfusionist to  
92-57 practice in this state, including rules governing character and  
92-58 conduct for applicants or license holders and fitness of applicants  
92-59 or license holders to practice [for licenses, including renewed and  
92-60 reciprocal licenses];

92-61 (2) issue, revoke, restrict, suspend, [or] deny,  
92-62 cancel, or accept the surrender of a license[, probate a license  
92-63 suspension, or reprimand a license holder for a violation of this  
92-64 chapter, a rule adopted by the executive commissioner under this  
92-65 chapter, or the code of ethics adopted by the executive  
92-66 commissioner];

92-67 (3) charge fees that are reasonable and necessary to  
92-68 cover the costs of administering this chapter [spend money  
92-69 necessary to administer the department's duties];

- 93-1 (4) establish requirements for an examination for a
- 93-2 license under this chapter [~~request and receive necessary~~
- 93-3 assistance from another state agency, including a state educational
- 93-4 institution];
- 93-5 (5) establish minimum education and training
- 93-6 requirements necessary for a license under this chapter [~~adopt an~~
- 93-7 official seal]; [~~and~~]
- 93-8 (6) prescribe the application form for a license under
- 93-9 this chapter;
- 93-10 (7) adopt and publish a [~~the~~] code of ethics;
- 93-11 (8) establish procedural rules governing
- 93-12 investigations, informal hearings, the issuance of cease and desist
- 93-13 orders, and disciplinary sanctions;
- 93-14 (9) conduct informal hearings concerning violations
- 93-15 of this chapter or rules adopted under this chapter;
- 93-16 (10) issue disciplinary sanctions, including agreed
- 93-17 orders and non-disciplinary remedial plans; and
- 93-18 (11) establish procedures for making a confidential
- 93-19 referral to the Texas Physician Health Program established under
- 93-20 Chapter 167, and for requiring participation in the program as a
- 93-21 prerequisite for issuing or maintaining a license under this
- 93-22 chapter [~~adopted by the executive commissioner~~].

93-23 SECTION 2.102. Section 603.152, Occupations Code, is

93-24 amended to read as follows:

93-25 Sec. 603.152. GENERAL RULEMAKING AUTHORITY. The medical

93-26 board [~~executive commissioner~~] may adopt rules necessary to:

- 93-27 (1) regulate the practice of perfusion;
- 93-28 (2) enforce this chapter; and
- 93-29 (3) perform medical board [~~department~~] duties under
- 93-30 this chapter.

93-31 SECTION 2.103. Section 603.153, Occupations Code, as

93-32 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

93-33 2015, is amended to read as follows:

93-34 Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE

93-35 BIDDING. (a) The medical board [~~executive commissioner~~] may not

93-36 adopt a rule restricting advertising or competitive bidding by a

93-37 person regulated by the medical board [~~department~~] under this

93-38 chapter except to prohibit a false, misleading, or deceptive

93-39 practice.

93-40 (b) The medical board [~~executive commissioner~~] may not

93-41 include in rules to prohibit a false, misleading, or deceptive

93-42 practice by a person regulated by the medical board [~~department~~]

93-43 under this chapter a rule that:

- 93-44 (1) restricts the person's use of any medium for
- 93-45 advertising;
- 93-46 (2) restricts the person's personal appearance or use
- 93-47 of the person's voice in an advertisement;
- 93-48 (3) relates to the size or duration of any
- 93-49 advertisement by the person; or
- 93-50 (4) restricts the use by the person of a trade name in
- 93-51 advertising.

93-52 SECTION 2.104. Section 603.1535, Occupations Code, as

93-53 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

93-54 2015, is amended to read as follows:

93-55 Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL

93-56 CONVICTION. (a) The medical board [~~executive commissioner~~] shall

93-57 adopt rules necessary to comply with Chapter 53, except to the

93-58 extent the requirements of this chapter are stricter than the

93-59 requirements of Chapter 53.

93-60 (b) In rules under this section, the medical board

93-61 [~~executive commissioner~~] shall list the specific offenses for which

93-62 a conviction would constitute grounds for the medical board

93-63 [~~department~~] to take action under Section 53.021.

93-64 SECTION 2.105. Section 603.154, Occupations Code, as

93-65 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

93-66 2015, is amended by amending Subsection (a) to read as follows:

93-67 (a) The medical board [~~After consulting the commissioner or~~

93-68 ~~the department, the executive commissioner~~] shall set fees in

93-69 amounts reasonable and necessary to cover the costs of

94-1 administering this chapter.

94-2 SECTION 2.106. Section 603.155, Occupations Code, is  
94-3 amended to read as follows:

94-4 Sec. 603.155. [~~EXECUTIVE COMMISSIONER AND DEPARTMENT~~]  
94-5 DUTIES REGARDING COMPLAINTS. (a) The medical board [~~executive~~  
94-6 ~~commissioner~~] by rule shall:

94-7 (1) adopt a form to standardize information concerning  
94-8 complaints made to the medical board [~~department~~]; and

94-9 (2) prescribe information to be provided to a person  
94-10 when the person files a complaint with the medical board  
94-11 [~~department~~].

94-12 (b) The medical board [~~department~~] shall provide reasonable  
94-13 assistance to a person who wishes to file a complaint with the  
94-14 medical board [~~department~~].

94-15 SECTION 2.107. Section 603.156, Occupations Code, is  
94-16 amended to read as follows:

94-17 Sec. 603.156. REGISTRY. The medical board [~~department~~]  
94-18 shall prepare a registry of licensed perfusionists and  
94-19 provisionally licensed perfusionists that is available to the  
94-20 public, license holders, and appropriate state agencies.

94-21 SECTION 2.108. Section 603.201, Occupations Code, is  
94-22 amended to read as follows:

94-23 Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The  
94-24 medical board [~~department~~] shall prepare information of consumer  
94-25 interest describing the profession of perfusion, the regulatory  
94-26 functions of the medical board [~~department~~], and the procedures by  
94-27 which consumer complaints are filed with and resolved by the  
94-28 medical board [~~department~~].

94-29 (b) The medical board [~~department~~] shall make the  
94-30 information available to the public and appropriate state agencies.

94-31 SECTION 2.109. Section 603.202, Occupations Code, as  
94-32 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
94-33 2015, is amended to read as follows:

94-34 Sec. 603.202. COMPLAINTS. (a) The medical board  
94-35 [~~executive commissioner~~] by rule shall establish methods by which  
94-36 consumers and service recipients are notified of the name, mailing  
94-37 address, and telephone number of the medical board [~~department~~]  
94-38 for the purpose of directing complaints under this chapter to the  
94-39 medical board [~~department~~]. The medical board [~~department~~] may  
94-40 provide for that notice:

94-41 (1) on each license form, application, or written  
94-42 contract for services of a person licensed under this chapter;

94-43 (2) on a sign prominently displayed in the place of  
94-44 business of each person licensed under this chapter; or

94-45 (3) in a bill for services provided by a person  
94-46 licensed under this chapter.

94-47 (b) The medical board [~~department~~] shall list with its  
94-48 regular telephone number any toll-free telephone number  
94-49 established under other state law that may be called to present a  
94-50 complaint about a health professional.

94-51 SECTION 2.110. Section 603.203, Occupations Code, as  
94-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
94-53 2015, is amended to read as follows:

94-54 Sec. 603.203. RECORDS OF COMPLAINTS. (a) The medical  
94-55 board [~~department~~] shall maintain a system to promptly and  
94-56 efficiently act on complaints filed [~~with the department~~] under  
94-57 this chapter. The medical board [~~department~~] shall maintain:

94-58 (1) information about the parties to the complaint and  
94-59 the subject matter of the complaint;

94-60 (2) a summary of the results of the review or  
94-61 investigation of the complaint; and

94-62 (3) information about the disposition of the  
94-63 complaint.

94-64 (b) The medical board [~~department~~] shall make information  
94-65 available describing its procedures for complaint investigation  
94-66 and resolution.

94-67 (c) The medical board [~~department~~] shall periodically  
94-68 notify the parties of the status of the complaint until final  
94-69 disposition of the complaint.

95-1 SECTION 2.111. Section 603.204, Occupations Code, is  
 95-2 amended by amending Subsections (a) and (d), as amended by S.B. 219,  
 95-3 Acts of the 84th Legislature, Regular Session, 2015, and amending  
 95-4 Subsection (b) to read as follows:

95-5 (a) The medical board [~~executive commissioner~~] shall adopt  
 95-6 rules concerning the investigation of a complaint filed [~~with the~~  
 95-7 ~~department~~] under this chapter. The rules shall:

95-8 (1) distinguish among categories of complaints;  
 95-9 (2) ensure that a complaint is not dismissed without  
 95-10 appropriate consideration;

95-11 (3) require that if [~~the department be advised of~~] a  
 95-12 complaint [~~that~~] is dismissed, [~~and that~~] a letter shall be sent to  
 95-13 the person who filed the complaint explaining the action taken on  
 95-14 the dismissed complaint;

95-15 (4) ensure that the person who filed the complaint has  
 95-16 an opportunity to explain the allegations made in the complaint;  
 95-17 and

95-18 (5) prescribe guidelines concerning the categories of  
 95-19 complaints that require the use of a private investigator and the  
 95-20 procedures for the medical board [~~department~~] to obtain the  
 95-21 services of a private investigator.

95-22 (b) The medical board [~~department~~] shall:

95-23 (1) dispose of each complaint in a timely manner; and  
 95-24 (2) establish, not later than the 30th day after the  
 95-25 date the medical board [~~department~~] receives a complaint, a  
 95-26 schedule for conducting each phase of the complaint resolution  
 95-27 process that is under the control of the medical board  
 95-28 [~~department~~].

95-29 (d) The executive director of the medical board [~~secretary~~]  
 95-30 shall notify the president of the medical board [~~department~~] of a  
 95-31 complaint that is not resolved within the time prescribed by the  
 95-32 medical board [~~department~~] for resolving the complaint so that the  
 95-33 president [~~department~~] may take necessary action on the complaint.

95-34 SECTION 2.112. The heading to Section 603.2041, Occupations  
 95-35 Code, is amended to read as follows:

95-36 Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

95-37 SECTION 2.113. Section 603.2041, Occupations Code, is  
 95-38 amended by amending Subsections (a), (h), and (i), as amended by  
 95-39 S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and  
 95-40 adding Subsection (a-1) to read as follows:

95-41 (a) The executive director of the medical board, the  
 95-42 director's designee, or the secretary-treasurer of the medical  
 95-43 board [~~In an investigation of a complaint filed with the~~  
 95-44 ~~department, the department~~] may issue a subpoena or subpoena duces  
 95-45 tecum:

95-46 (1) to conduct an investigation or a contested case  
 95-47 proceeding related to:

95-48 (A) alleged misconduct by a perfusionist;  
 95-49 (B) an alleged violation of this chapter or  
 95-50 another law related to the practice of perfusion; or

95-51 (C) the provision of health care under this  
 95-52 chapter; or

95-53 (2) for purposes of determining whether to issue,  
 95-54 suspend, restrict, or revoke a license under this chapter [~~to~~  
 95-55 ~~compel the attendance of a relevant witness or the production, for~~  
 95-56 ~~inspection or copying, of relevant evidence that is in this state].~~

95-57 (a-1) Failure to timely comply with a subpoena issued under  
 95-58 this section is a ground for:

95-59 (1) disciplinary action by the medical board or  
 95-60 another licensing or regulatory agency with jurisdiction over the  
 95-61 person subject to the subpoena; and

95-62 (2) denial of a license application.

95-63 (h) All information and materials subpoenaed or compiled by  
 95-64 the medical board [~~department~~] in connection with a complaint and  
 95-65 investigation under this chapter are confidential and not subject  
 95-66 to disclosure under Chapter 552, Government Code, and not subject  
 95-67 to disclosure, discovery, subpoena, or other means of legal  
 95-68 compulsion for their release to anyone other than the medical board  
 95-69 [~~department~~] or its agents or employees involved in discipline of

96-1 the holder of a license, except that this information may be  
96-2 disclosed to:

96-3 (1) persons involved with the medical board  
96-4 [~~department~~] in a disciplinary action against the holder of a  
96-5 license under this chapter;

96-6 (2) professional perfusionist licensing or  
96-7 disciplinary boards in other jurisdictions;

96-8 (3) peer assistance programs approved by the medical  
96-9 board [~~department~~] under Chapter 467, Health and Safety Code;

96-10 (4) law enforcement agencies; and

96-11 (5) persons engaged in bona fide research, if all  
96-12 individual-identifying information has been deleted.

96-13 (i) The filing of formal charges by the medical board  
96-14 [~~department~~] against a holder of a license under this chapter, the  
96-15 nature of those charges, disciplinary proceedings of the medical  
96-16 board [~~department~~], and final disciplinary actions, including  
96-17 warnings and reprimands, by the medical board [~~department~~] are not  
96-18 confidential and are subject to disclosure in accordance with  
96-19 Chapter 552, Government Code.

96-20 SECTION 2.114. Section 603.205, Occupations Code, as  
96-21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
96-22 2015, is amended to read as follows:

96-23 Sec. 603.205. PUBLIC PARTICIPATION. (a) The medical board  
96-24 [~~department~~] shall develop and implement policies that provide the  
96-25 public with a reasonable opportunity to appear before the medical  
96-26 board [~~department~~] and to speak on any issue related to the practice  
96-27 of perfusion.

96-28 (b) The medical board [~~department~~] shall prepare and  
96-29 maintain a written plan that describes how a person who does not  
96-30 speak English or who has a physical, mental, or developmental  
96-31 disability may be provided reasonable access to the medical board's  
96-32 [~~department's~~] programs under this chapter.

96-33 SECTION 2.115. Section 603.252(b), Occupations Code, as  
96-34 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
96-35 2015, is amended to read as follows:

96-36 (b) The medical board [~~department~~] shall prescribe the  
96-37 application form and [~~the executive commissioner~~] by rule may  
96-38 establish dates by which applications and fees must be received.

96-39 SECTION 2.116. Sections 603.253(b), (c), (d), and (e),  
96-40 Occupations Code, are amended to read as follows:

96-41 (b) The medical board [~~department~~] shall prepare or approve  
96-42 an examination. The medical board [~~department~~] may prescribe an  
96-43 examination that consists of or includes a written examination  
96-44 given by the American Board of Cardiovascular Perfusion or by a  
96-45 national or state testing service.

96-46 (c) The medical board [~~department~~] shall have any written  
96-47 portion of the examination validated by an independent testing  
96-48 professional.

96-49 (d) The medical board [~~department~~] shall administer an  
96-50 examination to qualified applicants at least once each calendar  
96-51 year.

96-52 (e) On receipt of an application and application fee, the  
96-53 medical board [~~department~~] shall waive the examination requirement  
96-54 for an applicant who, at the time of application:

96-55 (1) is licensed or certified by another state that has  
96-56 licensing or certification requirements the medical board  
96-57 [~~department~~] determines to be substantially equivalent to the  
96-58 requirements of this chapter; or

96-59 (2) holds a certificate as a certified clinical  
96-60 perfusionist issued by the American Board of Cardiovascular  
96-61 Perfusion before January 1, 1994, authorizing the holder to  
96-62 practice perfusion in a state that does not license or certify  
96-63 perfusionists.

96-64 SECTION 2.117. Sections 603.2535(b) and (c), Occupations  
96-65 Code, are amended to read as follows:

96-66 (b) The medical board [~~department~~] shall develop and  
96-67 administer at least twice each calendar year a jurisprudence  
96-68 examination to determine an applicant's knowledge of this chapter,  
96-69 rules adopted under this chapter [~~by the executive commissioner~~],

97-1 and any other applicable laws of this state affecting the  
 97-2 applicant's practice of perfusion.

97-3 (c) The medical board [~~executive commissioner~~] shall adopt  
 97-4 rules to implement this section, including rules related to the  
 97-5 development and administration of the examination, examination  
 97-6 fees, guidelines for reexamination, grading the examination, and  
 97-7 providing notice of examination results.

97-8 SECTION 2.118. Section 603.254, Occupations Code, is  
 97-9 amended to read as follows:

97-10 Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To  
 97-11 qualify for the licensing examinations under this chapter, an  
 97-12 applicant must have successfully completed a perfusion education  
 97-13 program approved by the medical board [~~department~~].

97-14 (b) The medical board [~~department~~] may approve a perfusion  
 97-15 education program only if the program has educational standards  
 97-16 that are:

97-17 (1) at least as stringent as those established by the  
 97-18 Accreditation Committee for Perfusion Education of the American  
 97-19 Medical Association or its successor; and

97-20 (2) approved by the Commission on Accreditation of the  
 97-21 Allied Health Education Program of the American Medical Association  
 97-22 or its successor.

97-23 SECTION 2.119. Section 603.255(a), Occupations Code, as  
 97-24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 97-25 2015, is amended to read as follows:

97-26 (a) The medical board [~~department~~] shall notify an  
 97-27 applicant in writing of the receipt and investigation of the  
 97-28 applicant's application and any other relevant evidence relating to  
 97-29 qualifications established by [~~department~~] rule not later than:

97-30 (1) the 45th day after the date a properly submitted  
 97-31 and timely application is received; and

97-32 (2) the 30th day before the next examination date.

97-33 SECTION 2.120. Section 603.256, Occupations Code, is  
 97-34 amended to read as follows:

97-35 Sec. 603.256. EXAMINATION RESULTS. (a) The medical board  
 97-36 [~~department~~] shall notify each examinee of the examination results  
 97-37 not later than the 30th day after the date the examination is  
 97-38 administered. If an examination is graded or reviewed by a national  
 97-39 or state testing service, the medical board [~~department~~] shall  
 97-40 notify each examinee of the examination results not later than the  
 97-41 14th day after the date the medical board [~~department~~] receives the  
 97-42 results from the testing service.

97-43 (b) If the notice of the results of an examination graded or  
 97-44 reviewed by a national or state testing service will be delayed for  
 97-45 longer than 90 days after the examination date, the medical board  
 97-46 [~~department~~] shall notify each examinee of the reason for the delay  
 97-47 before the 90th day.

97-48 (c) If requested in writing by a person who fails the  
 97-49 examination, the medical board [~~department~~] shall provide to the  
 97-50 person an analysis of the person's performance on the examination.

97-51 SECTION 2.121. Section 603.257, Occupations Code, is  
 97-52 amended to read as follows:

97-53 Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO  
 97-54 EXAMINATION. The medical board [~~executive commissioner~~] by rule  
 97-55 shall establish:

97-56 (1) a limit on the number of times an applicant who  
 97-57 fails an examination may retake the examination;

97-58 (2) requirements for retaking an examination; and

97-59 (3) alternative methods of examining competency.

97-60 SECTION 2.122. Subchapter F, Chapter 603, Occupations Code,  
 97-61 is amended by adding Section 603.2571 to read as follows:

97-62 Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION  
 97-63 REQUIREMENT FOR LICENSE. (a) The medical board shall require that  
 97-64 an applicant for a license submit a complete and legible set of  
 97-65 fingerprints, on a form prescribed by the medical board, to the  
 97-66 medical board or to the Department of Public Safety for the purpose  
 97-67 of obtaining criminal history record information from the  
 97-68 Department of Public Safety and the Federal Bureau of  
 97-69 Investigation.

98-1           (b) The medical board may not issue a license to a person who  
 98-2 does not comply with the requirement of Subsection (a).

98-3           (c) The medical board shall conduct a criminal history check  
 98-4 of each applicant for a license using information:

98-5                 (1) provided by the individual under this section; and  
 98-6                 (2) made available to the medical board by the  
 98-7 Department of Public Safety, the Federal Bureau of Investigation,  
 98-8 and any other criminal justice agency under Chapter 411, Government  
 98-9 Code.

98-10          (d) The medical board may:  
 98-11                 (1) enter into an agreement with the Department of  
 98-12 Public Safety to administer a criminal history check required under  
 98-13 this section; and

98-14                 (2) authorize the Department of Public Safety to  
 98-15 collect from each applicant the costs incurred by the Department of  
 98-16 Public Safety in conducting the criminal history check.

98-17          SECTION 2.123. Section 603.259, Occupations Code, is  
 98-18 amended by amending Subsections (a) and (d) and Subsection (c), as  
 98-19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 98-20 2015, to read as follows:

98-21          (a) The medical board [department] may issue a provisional  
 98-22 license to an applicant who files an application, pays an  
 98-23 application fee, and submits evidence satisfactory to the medical  
 98-24 board [department] of successful completion of the education  
 98-25 requirement under Section 603.254.

98-26          (c) A provisionally licensed perfusionist must practice  
 98-27 under the supervision and direction of a licensed perfusionist  
 98-28 while performing perfusion. If the medical board [department]  
 98-29 finds that a licensed perfusionist is not reasonably available to  
 98-30 provide supervision and direction and if the medical board  
 98-31 [department] approves an application submitted [to the department]  
 98-32 by the provisionally licensed perfusionist, supervision and  
 98-33 direction may be provided by a physician who is licensed by the  
 98-34 medical board [Texas Medical Board] and certified by the American  
 98-35 Board of Thoracic Surgery or certified in cardiovascular surgery by  
 98-36 the American Osteopathic Board of Surgery.

98-37          (d) The medical board [executive commissioner] may not  
 98-38 adopt a rule governing supervision and direction that requires the  
 98-39 immediate physical presence of the supervising person.

98-40          SECTION 2.124. Sections 603.301(b), (c), (d), and (f),  
 98-41 Occupations Code, are amended to read as follows:

98-42          (b) The medical board [executive commissioner] by rule may  
 98-43 adopt a system under which licenses expire on various dates during  
 98-44 the year.

98-45          (c) A person may renew an unexpired license by paying the  
 98-46 required renewal fee to the medical board [department] before the  
 98-47 license expiration date.

98-48          (d) A person whose license has been expired for 90 days or  
 98-49 less may renew the license by paying to the medical board  
 98-50 [department] a fee that is equal to 1-1/4 times the amount of the  
 98-51 renewal fee. If a license has been expired for more than 90 days but  
 98-52 less than one year, the person may renew the license by paying to  
 98-53 the medical board [department] a fee that is equal to 1-1/2 times  
 98-54 the amount of the renewal fee.

98-55          (f) Before the 30th day before a person's license expiration  
 98-56 date, the medical board [department] shall send written notice of  
 98-57 the impending license expiration to the person at the person's last  
 98-58 known address according to medical board [department] records.

98-59          SECTION 2.125. Section 603.303, Occupations Code, is  
 98-60 amended to read as follows:

98-61          Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE  
 98-62 PRACTITIONER. (a) The medical board [department] may renew  
 98-63 without reexamination an expired license of a person who was  
 98-64 licensed as a perfusionist in this state, moved to another state,  
 98-65 and is licensed or certified and has been in practice in the other  
 98-66 state for the two years preceding the date the person applies for  
 98-67 renewal.

98-68          (b) The person must pay to the medical board [department] a  
 98-69 fee that is equal to the amount of the renewal fee for the license.

99-1 SECTION 2.126. Subchapter G, Chapter 603, Occupations Code,  
99-2 is amended by adding Section 603.3031 to read as follows:

99-3 Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION  
99-4 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license  
99-5 shall submit a complete and legible set of fingerprints for  
99-6 purposes of performing a criminal history check of the applicant as  
99-7 provided by Section 603.2571.

99-8 (b) The medical board may not renew the license of a person  
99-9 who does not comply with the requirement of Subsection (a).

99-10 (c) A license holder is not required to submit fingerprints  
99-11 under this section for the renewal of the license if the license  
99-12 holder has previously submitted fingerprints under:

99-13 (1) Section 603.2571 for the initial issuance of the  
99-14 license; or

99-15 (2) this section as part of a prior renewal of the  
99-16 license.

99-17 SECTION 2.127. Section 603.304, Occupations Code, as  
99-18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
99-19 2015, is amended to read as follows:

99-20 Sec. 603.304. CONTINUING EDUCATION. (a) To renew a  
99-21 license under this chapter, a person must submit proof satisfactory  
99-22 to the medical board [~~department~~] that the person has complied with  
99-23 the continuing education requirements prescribed by the medical  
99-24 board [~~executive commissioner~~].

99-25 (b) The medical board [~~executive commissioner~~] shall  
99-26 establish continuing education programs for licensed perfusionists  
99-27 and provisionally licensed perfusionists under this chapter. The  
99-28 standards of the programs must be at least as stringent as the  
99-29 standards of the American Board of Cardiovascular Perfusion or its  
99-30 successor.

99-31 (c) The medical board [~~executive commissioner~~] shall:

99-32 (1) establish a minimum number of hours of continuing  
99-33 education required for license renewal under this chapter; and

99-34 (2) develop a process to evaluate and approve  
99-35 continuing education courses.

99-36 (d) The medical board [~~executive commissioner~~] shall  
99-37 identify key factors for a license holder's competent performance  
99-38 of professional duties. The medical board [~~executive commissioner~~]  
99-39 shall adopt a procedure to assess a license holder's participation  
99-40 in continuing education programs.

99-41 SECTION 2.128. Section 603.305, Occupations Code, is  
99-42 amended to read as follows:

99-43 Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The medical  
99-44 board [~~department~~] may refuse to renew the license of a person who  
99-45 fails to pay an administrative penalty imposed under Subchapter K  
99-46 unless enforcement of the penalty is stayed or a court has ordered  
99-47 that the administrative penalty is not owed.

99-48 SECTION 2.129. Section 603.352, Occupations Code, is  
99-49 amended to read as follows:

99-50 Sec. 603.352. LICENSE HOLDER INFORMATION. A person  
99-51 licensed under this chapter shall keep the medical board  
99-52 [department] informed of any change in the license holder's  
99-53 address.

99-54 SECTION 2.130. Section 603.353, Occupations Code, is  
99-55 amended to read as follows:

99-56 Sec. 603.353. SURRENDER OF LICENSE. A license certificate  
99-57 issued by the medical board [~~department~~] is the property of the  
99-58 medical board [~~department~~] and shall be surrendered on demand.

99-59 SECTION 2.131. Section 603.401, Occupations Code, is  
99-60 amended to read as follows:

99-61 Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a  
99-62 license holder violates this chapter or a rule or code of ethics  
99-63 adopted under this chapter [~~by the executive commissioner~~], the  
99-64 medical board may [~~department shall~~]:

99-65 (1) revoke, restrict, or suspend the license;

99-66 (2) place on probation the person if the person's  
99-67 license has been suspended;

99-68 (3) reprimand the license holder; or

99-69 (4) refuse to renew the license.

100-1 SECTION 2.132. Section 603.402, Occupations Code, as  
 100-2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 100-3 2015, is amended to read as follows:

100-4 Sec. 603.402. CONTESTED CASE HEARING. Chapter 2001,  
 100-5 Government Code, and medical board rules for a contested case  
 100-6 hearing apply to a proceeding by the medical board under this  
 100-7 chapter in which a formal complaint has been filed [~~(a) If the~~  
 100-8 ~~department proposes to revoke, suspend, or refuse to renew a~~  
 100-9 ~~person's license, the person is entitled to a hearing before a~~  
 100-10 ~~hearings officer appointed by the State Office of Administrative~~  
 100-11 ~~Hearings].~~

100-12 [~~(b) The executive commissioner shall prescribe procedures~~  
 100-13 ~~for appealing to the department a decision to revoke, suspend, or~~  
 100-14 ~~refuse to renew a license.]~~

100-15 SECTION 2.133. Section 603.404(a), Occupations Code, is  
 100-16 amended to read as follows:

100-17 (a) The medical board [~~executive commissioner~~] by rule  
 100-18 shall adopt a broad schedule of sanctions for a violation of this  
 100-19 chapter.

100-20 SECTION 2.134. Section 603.405, Occupations Code, is  
 100-21 amended to read as follows:

100-22 Sec. 603.405. PROBATION. The medical board [~~department~~]  
 100-23 may require a person whose license suspension is probated to:

100-24 (1) report regularly to the medical board [~~department~~]  
 100-25 on matters that are the basis of the probation;

100-26 (2) limit practice to areas prescribed by the medical  
 100-27 board [~~department~~]; or

100-28 (3) continue the person's professional education until  
 100-29 the license holder attains a degree of skill satisfactory to the  
 100-30 medical board [~~department~~] in those areas that are the basis of the  
 100-31 probation.

100-32 SECTION 2.135. Section 603.406, Occupations Code, is  
 100-33 amended to read as follows:

100-34 Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The  
 100-35 medical board [~~executive commissioner~~] by rule shall develop a  
 100-36 system for monitoring a license holder's compliance with the  
 100-37 requirements of this chapter.

100-38 (b) Rules adopted under this section must include  
 100-39 procedures to:

100-40 (1) monitor for compliance a license holder who is  
 100-41 ordered by the medical board [~~department~~] to perform certain acts;  
 100-42 and

100-43 (2) identify and monitor license holders who represent  
 100-44 a risk to the public.

100-45 SECTION 2.136. Section 603.407, Occupations Code, is  
 100-46 amended to read as follows:

100-47 Sec. 603.407. INFORMAL PROCEDURES. (a) The medical board  
 100-48 [~~executive commissioner~~] by rule shall adopt procedures governing:

100-49 (1) informal disposition of a contested case under  
 100-50 Section 2001.056, Government Code; and

100-51 (2) an informal proceeding held in compliance with  
 100-52 Section 2001.054, Government Code.

100-53 (b) Rules adopted under Subsection (a) must:

100-54 (1) provide the complainant, if applicable and  
 100-55 permitted by law, an opportunity to be heard;

100-56 (2) provide [~~and~~] the license holder an opportunity to  
 100-57 be heard; and

100-58 (3) [~~(2)~~] require the presence of a representative of  
 100-59 the attorney general or the medical board's [~~department's~~] legal  
 100-60 counsel to advise the medical board [~~department~~] or the medical  
 100-61 board's [~~department's~~] employees.

100-62 (c) Chapters 551 and 552, Government Code, do not apply to  
 100-63 an investigation file and investigative information in the  
 100-64 possession of or used by the medical board in an informal proceeding  
 100-65 under this section.

100-66 SECTION 2.137. Section 603.408(a), Occupations Code, is  
 100-67 amended to read as follows:

100-68 (a) The medical board or a three-member panel of medical  
 100-69 board members designated by the president of the medical board

101-1 [~~department~~] shall temporarily suspend the license of a license  
 101-2 holder if the medical board or panel [~~department~~] determines from  
 101-3 the evidence or information presented to it that continued practice  
 101-4 by the license holder would constitute a continuing and imminent  
 101-5 threat to the public welfare.

101-6 SECTION 2.138. Section 603.409, Occupations Code, is  
 101-7 amended to read as follows:

101-8 Sec. 603.409. REFUND. (a) Subject to Subsection (b), the  
 101-9 medical board [~~department~~] may order a license holder to pay a  
 101-10 refund to a consumer as provided in an agreement resulting from an  
 101-11 informal settlement conference instead of or in addition to  
 101-12 imposing an administrative penalty under this chapter.

101-13 (b) The amount of a refund ordered as provided in an  
 101-14 agreement resulting from an informal settlement conference may not  
 101-15 exceed the amount the consumer paid to the license holder for a  
 101-16 service regulated by this chapter. The medical board [~~department~~]  
 101-17 may not require payment of other damages or estimate harm in a  
 101-18 refund order.

101-19 SECTION 2.139. Section 603.451(a), Occupations Code, is  
 101-20 amended to read as follows:

101-21 (a) The medical board [~~department~~] may request the attorney  
 101-22 general or the appropriate county or district attorney to commence  
 101-23 an action to enjoin a violation of this chapter.

101-24 SECTION 2.140. Section 603.4515, Occupations Code, as  
 101-25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 101-26 2015, is amended to read as follows:

101-27 Sec. 603.4515. CIVIL PENALTY. (a) A person who violates  
 101-28 this chapter or ~~[7]~~ a rule adopted ~~[by the executive commissioner~~  
 101-29 ~~under this chapter,~~] or an order issued ~~[adopted by the department]~~  
 101-30 under this chapter is liable for a civil penalty not to exceed  
 101-31 \$5,000 a day.

101-32 (b) At the request of the medical board [~~department~~], the  
 101-33 attorney general shall bring an action to recover a civil penalty  
 101-34 authorized under this section.

101-35 SECTION 2.141. Section 603.453(a), Occupations Code, as  
 101-36 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 101-37 2015, is amended to read as follows:

101-38 (a) If it appears to the medical board [~~department~~] that a  
 101-39 person who is not licensed under this chapter is violating this  
 101-40 chapter, a rule adopted under this chapter, or another state  
 101-41 statute or rule relating to the practice of perfusion, the medical  
 101-42 board [~~department~~] after notice and an opportunity for a hearing  
 101-43 may issue a cease and desist order prohibiting the person from  
 101-44 engaging in the activity.

101-45 SECTION 2.142. Section 603.501, Occupations Code, is  
 101-46 amended to read as follows:

101-47 Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
 101-48 medical board [~~department~~] may impose an administrative penalty on  
 101-49 a person licensed under this chapter who violates this chapter or a  
 101-50 rule or order adopted under this chapter.

101-51 SECTION 2.143. Section 603.502(c), Occupations Code, as  
 101-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 101-53 2015, is amended to read as follows:

101-54 (c) The medical board [~~executive commissioner~~] by rule  
 101-55 shall adopt an administrative penalty schedule based on the  
 101-56 criteria listed in Subsection (b) for violations of this chapter or  
 101-57 applicable rules to ensure that the amounts of penalties imposed  
 101-58 are appropriate to the violation. The medical board [~~department~~]  
 101-59 shall provide the administrative penalty schedule to the public on  
 101-60 request.

101-61 SECTION 2.144. Section 603.503, Occupations Code, as  
 101-62 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 101-63 2015, is amended to read as follows:

101-64 Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. If the  
 101-65 medical board [~~department~~] determines that a violation occurred,  
 101-66 the medical board [~~department~~] shall give written notice of the  
 101-67 violation to the person. The notice must:

- 101-68 (1) include a brief summary of the alleged violation;
- 101-69 (2) state the amount of the recommended administrative

102-1 penalty [~~recommended by the department~~]; and

102-2 (3) inform the person of the person's right to a  
102-3 hearing on the occurrence of the violation, the amount of the  
102-4 penalty, or both.

102-5 SECTION 2.145. Section 603.504, Occupations Code, as  
102-6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
102-7 2015, is amended to read as follows:

102-8 Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED.

102-9 (a) Within 10 days after the date the person receives the notice,  
102-10 the person in writing may:

102-11 (1) accept the determination and recommended  
102-12 administrative penalty of the medical board [~~department~~]; or

102-13 (2) make a request for a hearing on the occurrence of  
102-14 the violation, the amount of the penalty, or both.

102-15 (b) If the person accepts the determination and recommended  
102-16 penalty of the medical board [~~department~~], the medical board  
102-17 [~~department~~] by order shall approve the determination and impose  
102-18 the recommended penalty.

102-19 SECTION 2.146. Sections 603.505(a) and (c), Occupations  
102-20 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
102-21 Session, 2015, are amended to read as follows:

102-22 (a) If the person requests a hearing or fails to respond in a  
102-23 timely manner to the notice, the medical board [~~department~~] shall  
102-24 set a hearing and give written notice of the hearing to the person.

102-25 (c) The administrative law judge shall make findings of fact  
102-26 and conclusions of law and promptly issue to the medical board  
102-27 [~~department~~] a proposal for a decision about the occurrence of the  
102-28 violation and the amount of a proposed administrative penalty.

102-29 SECTION 2.147. Section 603.506, Occupations Code, as  
102-30 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
102-31 2015, is amended to read as follows:

102-32 Sec. 603.506. DECISION BY MEDICAL BOARD [~~DEPARTMENT~~].

102-33 (a) Based on the findings of fact, conclusions of law, and  
102-34 proposal for decision, the medical board [~~department~~] by order may  
102-35 determine that:

102-36 (1) a violation occurred and impose an administrative  
102-37 penalty; or

102-38 (2) a violation did not occur.

102-39 (b) The notice of the medical board's [~~department's~~] order  
102-40 given to the person must include a statement of the right of the  
102-41 person to judicial review of the order.

102-42 SECTION 2.148. Sections 603.507(a), (b), and (c),  
102-43 Occupations Code, as amended by S.B. 219, Acts of the 84th  
102-44 Legislature, Regular Session, 2015, are amended to read as follows:

102-45 (a) Within 30 days after the date the medical board's  
102-46 [~~department's~~] order becomes final, the person shall:

102-47 (1) pay the administrative penalty; or

102-48 (2) file a petition for judicial review contesting the  
102-49 occurrence of the violation, the amount of the penalty, or both.

102-50 (b) Within the 30-day period prescribed by Subsection (a), a  
102-51 person who files a petition for judicial review may:

102-52 (1) stay enforcement of the penalty by:

102-53 (A) paying the penalty to the court for placement  
102-54 in an escrow account; or

102-55 (B) giving the court a supersedeas bond approved  
102-56 by the court that:

102-57 (i) is for the amount of the penalty; and

102-58 (ii) is effective until all judicial review  
102-59 of the medical board's [~~department's~~] order is final; or

102-60 (2) request the court to stay enforcement of the  
102-61 penalty by:

102-62 (A) filing with the court a sworn affidavit of  
102-63 the person stating that the person is financially unable to pay the  
102-64 penalty and is financially unable to give the supersedeas bond; and

102-65 (B) giving a copy of the affidavit to the medical  
102-66 board [~~department~~] by certified mail.

102-67 (c) If the medical board [~~department~~] receives a copy of an  
102-68 affidavit under Subsection (b)(2), the medical board [~~department~~]  
102-69 may file with the court, within five days after the date the copy is

103-1 received, a contest to the affidavit.

103-2 SECTION 2.149. Sections 604.001(1) and (2), Occupations  
103-3 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
103-4 Session, 2015, are amended to read as follows:

103-5 (1) "Advisory board" means the Texas Board of  
103-6 Respiratory Care [~~"Department" means the Department of State Health~~  
103-7 ~~Services~~].

103-8 (2) "Medical board" means the Texas Medical Board  
103-9 [~~"Executive commissioner" means the executive commissioner of the~~  
103-10 ~~Health and Human Services Commission~~].

103-11 SECTION 2.150. Section 604.003, Occupations Code, is  
103-12 amended to read as follows:

103-13 Sec. 604.003. EFFECT OF CHAPTER. This chapter does not  
103-14 prohibit:

103-15 (1) the practice of respiratory care as an integral  
103-16 part of the program of study by a student enrolled in a respiratory  
103-17 care education program approved by the advisory board [~~department~~];

103-18 (2) the employment by a health care facility of a  
103-19 person to deliver limited respiratory care support services under  
103-20 the supervision of another person who holds a certificate issued  
103-21 under this chapter, if the person delivering the services does not  
103-22 perform an invasive procedure related to critical respiratory care,  
103-23 including a therapeutic, diagnostic, or palliative procedure, as  
103-24 part of the person's employment and if that person:

103-25 (A) is enrolled for credit in the clinical  
103-26 portion of an approved respiratory care education program; or

103-27 (B) has completed all of the clinical portion of  
103-28 an approved respiratory care education program within the preceding  
103-29 12 months and is actively pursuing a course of study leading to  
103-30 graduation from the program;

103-31 (3) the care of an ill person provided without charge  
103-32 by a friend or family member;

103-33 (4) care provided in an emergency by a person who does  
103-34 not claim to be a respiratory care practitioner;

103-35 (5) the performance by a respiratory care practitioner  
103-36 of an advance in the art and techniques of respiratory care learned  
103-37 through formal or specialized training;

103-38 (6) the practice of respiratory care by health care  
103-39 personnel who have been formally trained in the care used and who  
103-40 are:

103-41 (A) licensed under the law regulating their  
103-42 professions; or

103-43 (B) acting under the delegated authority of a  
103-44 licensed physician;

103-45 (7) the practice of a legally qualified respiratory  
103-46 care practitioner who is discharging the practitioner's official  
103-47 duties as an employee of the United States government; or

103-48 (8) the practice by a person of a profession or  
103-49 occupation for which the person is licensed, registered, or  
103-50 certified under another law of this state.

103-51 SECTION 2.151. Chapter 604, Occupations Code, is amended by  
103-52 adding Subchapter A-1 to read as follows:

103-53 SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

103-54 Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. The Texas  
103-55 Board of Respiratory Care is an advisory board to the Texas Medical  
103-56 Board.

103-57 Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) The  
103-58 advisory board consists of nine members appointed by the governor  
103-59 with the advice and consent of the senate as follows:

103-60 (1) four respiratory care practitioners who each have  
103-61 at least five years of experience as a respiratory care  
103-62 practitioner;

103-63 (2) two physicians licensed in this state who  
103-64 supervise respiratory care practitioners; and

103-65 (3) three members who represent the public.

103-66 (b) Appointments to the advisory board shall be made without  
103-67 regard to the race, color, disability, sex, religion, age, or  
103-68 national origin of the appointee.

103-69 Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS.

104-1 (a) In this section, "Texas trade association" means a cooperative  
 104-2 and voluntarily joined statewide association of business or  
 104-3 professional competitors in this state designed to assist its  
 104-4 members and its industry or profession in dealing with mutual  
 104-5 business or professional problems and in promoting their common  
 104-6 interest.

104-7 (b) A person may not be a public member of the advisory board  
 104-8 if the person or the person's spouse:

104-9 (1) is registered, certified, or licensed by a  
 104-10 regulatory agency in a health care profession;

104-11 (2) is employed by or participates in the management  
 104-12 of a business entity or other organization regulated by or  
 104-13 receiving money from the medical board or advisory board;

104-14 (3) owns or controls, directly or indirectly, more  
 104-15 than a 10 percent interest in a business entity or other  
 104-16 organization regulated by or receiving money from the medical board  
 104-17 or advisory board; or

104-18 (4) uses or receives a substantial amount of tangible  
 104-19 goods, services, or money from the medical board or advisory board  
 104-20 other than compensation or reimbursement authorized by law for  
 104-21 advisory board membership, attendance, or expenses.

104-22 (c) A person may not be a member of the advisory board if:

104-23 (1) the person is an officer, employee, or paid  
 104-24 consultant of a Texas trade association in the field of health care;  
 104-25 or

104-26 (2) the person's spouse is an officer, manager, or paid  
 104-27 consultant of a Texas trade association in the field of health care.

104-28 (d) A person may not be a member of the advisory board or act  
 104-29 as the general counsel to the advisory board if the person is  
 104-30 required to register as a lobbyist under Chapter 305, Government  
 104-31 Code, because of the person's activities for compensation on behalf  
 104-32 of a profession related to the operation of the medical board or  
 104-33 advisory board.

104-34 Sec. 604.024. TERMS; VACANCIES. (a) Members of the  
 104-35 advisory board are appointed for staggered six-year terms. The  
 104-36 terms of three members expire on February 1 of each odd-numbered  
 104-37 year.

104-38 (b) A member may not serve more than:

104-39 (1) two consecutive full terms; or

104-40 (2) a total of three full terms.

104-41 (c) If a vacancy occurs during a member's term, the governor  
 104-42 shall appoint a new member to fill the unexpired term.

104-43 Sec. 604.025. OFFICERS. The governor shall designate a  
 104-44 member of the advisory board as the presiding officer of the  
 104-45 advisory board to serve in that capacity at the will of the  
 104-46 governor. The advisory board shall select from its membership an  
 104-47 assistant presiding officer and other officers as the advisory  
 104-48 board considers necessary to carry out the advisory board's duties.

104-49 Sec. 604.026. GROUNDS FOR REMOVAL. (a) It is a ground for  
 104-50 removal from the advisory board that a member:

104-51 (1) does not have at the time of taking office the  
 104-52 qualifications required by Sections 604.022 and 604.023;

104-53 (2) does not maintain during service on the advisory  
 104-54 board the qualifications required by Sections 604.022 and 604.023;

104-55 (3) is ineligible for membership under Section  
 104-56 604.023;

104-57 (4) cannot, because of illness or disability,  
 104-58 discharge the member's duties for a substantial part of the member's  
 104-59 term; or

104-60 (5) is absent from more than half of the regularly  
 104-61 scheduled advisory board meetings that the member is eligible to  
 104-62 attend during a calendar year without an excuse approved by a  
 104-63 majority vote of the advisory board.

104-64 (b) The validity of an action of the advisory board is not  
 104-65 affected by the fact that it is taken when a ground for removal of an  
 104-66 advisory board member exists.

104-67 (c) If the executive director of the medical board has  
 104-68 knowledge that a potential ground for removal exists, the executive  
 104-69 director shall notify the presiding officer of the advisory board

105-1 of the potential ground. The presiding officer shall then notify  
 105-2 the governor and the attorney general that a potential ground for  
 105-3 removal exists. If the potential ground for removal involves the  
 105-4 presiding officer, the executive director shall notify the next  
 105-5 highest ranking officer of the advisory board, who shall then  
 105-6 notify the governor and the attorney general that a potential  
 105-7 ground for removal exists.

105-8 Sec. 604.027. PER DIEM. A member of the advisory board is  
 105-9 entitled to receive a per diem as set by legislative appropriation  
 105-10 for each day that the member engages in the business of the advisory  
 105-11 board.

105-12 Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,  
 105-13 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided by  
 105-14 this chapter, the advisory board is subject to Chapters 551, 552,  
 105-15 and 2001, Government Code.

105-16 Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The  
 105-17 advisory board shall conduct regular meetings at least three times  
 105-18 a year at the times and places the advisory board considers most  
 105-19 convenient for applicants and advisory board members.

105-20 (b) The advisory board may hold special meetings in  
 105-21 accordance with rules adopted by the advisory board and approved by  
 105-22 the medical board.

105-23 (c) A majority of the advisory board members constitutes a  
 105-24 quorum for all purposes except for an advisory board activity  
 105-25 related to examining the credentials of applicants, acting as a  
 105-26 panel for disciplinary action under Section 604.202, or conducting  
 105-27 an informal meeting under Section 604.209.

105-28 Sec. 604.030. TRAINING. (a) A person who is appointed to  
 105-29 and qualifies for office as a member of the advisory board may not  
 105-30 vote, deliberate, or be counted as a member in attendance at a  
 105-31 meeting of the advisory board until the person completes a training  
 105-32 program that complies with this section.

105-33 (b) The training program must provide the person with  
 105-34 information regarding:

105-35 (1) this chapter and the advisory board's programs,  
 105-36 functions, rules, and budget;

105-37 (2) the results of the most recent formal audit of the  
 105-38 advisory board;

105-39 (3) the requirements of laws relating to open  
 105-40 meetings, public information, administrative procedure, and  
 105-41 conflicts of interest; and

105-42 (4) any applicable ethics policies adopted by the  
 105-43 advisory board or the Texas Ethics Commission.

105-44 (c) A person appointed to the advisory board is entitled to  
 105-45 reimbursement, as provided by the General Appropriations Act, for  
 105-46 the travel expenses incurred in attending the training program  
 105-47 regardless of whether the attendance at the program occurs before  
 105-48 or after the person qualifies for office.

105-49 SECTION 2.152. The heading to Subchapter B, Chapter 604,  
 105-50 Occupations Code, as amended by S.B. 219, Acts of the 84th  
 105-51 Legislature, Regular Session, 2015, is amended to read as follows:

105-52 SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [~~EXECUTIVE~~  
 105-53 ~~COMMISSIONER~~] AND MEDICAL BOARD [~~DEPARTMENT~~]

105-54 SECTION 2.153. The heading to Section 604.052, Occupations  
 105-55 Code, is amended to read as follows:

105-56 Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD  
 105-57 [~~RULES~~].

105-58 SECTION 2.154. Section 604.052(a), Occupations Code, as  
 105-59 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 105-60 2015, is amended to read as follows:

105-61 (a) The advisory board [~~executive commissioner by rule~~]  
 105-62 shall:

105-63 (1) adopt rules that are reasonable and necessary for  
 105-64 the performance of the advisory board's duties under this chapter,  
 105-65 as provided by Chapter 2001, Government Code, including rules to  
 105-66 establish:

105-67 (A) the certification and permitting program;

105-68 (B) minimum qualifications for respiratory care  
 105-69 practitioners;

106-1 (C) standards of conduct and fitness for  
 106-2 respiratory care practitioners;

106-3 (D) grounds for disciplinary actions;

106-4 (E) procedures for disciplinary proceedings;

106-5 (F) guidelines for the issuance of sanctions;

106-6 (G) procedures for non-disciplinary remedial  
 106-7 plans; and

106-8 (H) procedures for requiring an applicant for or  
 106-9 holder of a certificate or temporary permit to submit to:

106-10 (i) an examination of the applicant's or  
 106-11 holder's physical or mental health; and

106-12 (ii) screening for alcohol or substance  
 106-13 abuse or behavioral issues;

106-14 (2) review and approve or reject each application for  
 106-15 the issuance or renewal of a certificate or temporary permit;

106-16 (3) adopt procedures for the issuance or renewal of  
 106-17 each certificate or permit;

106-18 (4) deny, suspend, restrict, cancel, or revoke  
 106-19 [standards for issuing, denying, renewing, suspending, suspending  
 106-20 on an emergency basis, or revoking] a certificate or temporary  
 106-21 permit or otherwise discipline a certificate or permit holder; and

106-22 (5) take any other action necessary to carry out the  
 106-23 functions and duties of the advisory board under this chapter.

106-24 SECTION 2.155. Subchapter B, Chapter 604, Occupations Code,  
 106-25 is amended by adding Sections 604.0521 and 604.0522 to read as  
 106-26 follows:

106-27 Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN  
 106-28 RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines  
 106-29 to establish procedures for receiving input during the rulemaking  
 106-30 process from individuals and groups that have an interest in  
 106-31 matters under the advisory board's jurisdiction. The guidelines  
 106-32 must provide an opportunity for those individuals and groups to  
 106-33 provide input before the advisory board submits the rule to the  
 106-34 medical board for approval.

106-35 (b) A rule adopted under this chapter may not be challenged  
 106-36 on the grounds that the advisory board did not comply with this  
 106-37 section. If the advisory board was unable to solicit a significant  
 106-38 amount of input from the public or affected persons early in the  
 106-39 rulemaking process, the advisory board shall state in writing the  
 106-40 reasons why it was unable to do so.

106-41 Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING  
 106-42 TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall  
 106-43 adopt rules consistent with this chapter to regulate:

106-44 (1) respiratory care practitioners; and

106-45 (2) physicians who supervise respiratory care  
 106-46 practitioners.

106-47 (b) The medical board, by a majority vote, shall approve or  
 106-48 reject each rule adopted by the advisory board. If approved, the  
 106-49 rule may take effect. If the rule is rejected, the medical board  
 106-50 shall return the rule to the advisory board for revision.

106-51 SECTION 2.156. Section 604.053, Occupations Code, as  
 106-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 106-53 2015, is amended to read as follows:

106-54 Sec. 604.053. FEES. (a) The advisory board [~~executive~~  
 106-55 ~~commissioner~~] by rule shall set fees for an application,  
 106-56 examination, certificate, temporary permit, permit and certificate  
 106-57 renewal, and certificate reinstatement.

106-58 (b) The advisory board [~~executive commissioner~~] by rule  
 106-59 shall set fees in reasonable amounts that are sufficient to cover  
 106-60 the costs of administering this chapter. [The executive  
 106-61 ~~commissioner shall set fees for issuing or renewing a certificate~~  
 106-62 ~~or permit in amounts designed to allow the department to recover~~  
 106-63 ~~from the certificate and permit holders all of the department's~~  
 106-64 ~~direct and indirect costs in administering and enforcing this~~  
 106-65 ~~chapter.]~~

106-66 SECTION 2.157. Section 604.054, Occupations Code, is  
 106-67 amended to read as follows:

106-68 Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In  
 106-69 determining whether to approve a respiratory care education

107-1 program, the advisory board [~~department~~] shall consider relevant  
 107-2 information about the quality of the program, including  
 107-3 accreditation of the program by a professional medical association,  
 107-4 such as the Commission on Accreditation of Allied Health Education  
 107-5 Programs.

107-6 SECTION 2.158. Section 604.055, Occupations Code, as  
 107-7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 107-8 2015, is amended to read as follows:

107-9 Sec. 604.055. PEER ASSISTANCE PROGRAM. The advisory board  
 107-10 [~~department~~] may use the Texas Physician Health Program established  
 107-11 under Chapter 167 as the advisory board's [~~establish, approve, and~~  
 107-12 ~~fund a~~] peer assistance program [~~in accordance with Section~~  
 107-13 467.003, Health and Safety Code, and department rules]. The  
 107-14 advisory board by rule may establish procedures for making a  
 107-15 confidential referral to the Texas Physician Health Program and for  
 107-16 requiring participation in the program as a prerequisite for  
 107-17 issuing or maintaining a certificate or temporary permit under this  
 107-18 chapter.

107-19 SECTION 2.159. Section 604.057, Occupations Code, as  
 107-20 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 107-21 2015, is amended to read as follows:

107-22 Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE  
 107-23 BIDDING. (a) The advisory board [~~executive commissioner~~] may not  
 107-24 adopt rules restricting advertising or competitive bidding by a  
 107-25 temporary permit or certificate holder except to prohibit false,  
 107-26 misleading, or deceptive practices.

107-27 (b) In adopting rules to prohibit false, misleading, or  
 107-28 deceptive practices, the advisory board [~~executive commissioner~~]  
 107-29 may not include a rule that:

- 107-30 (1) restricts the use of any medium for advertising;  
 107-31 (2) restricts the use of a temporary permit or  
 107-32 certificate holder's personal appearance or voice in an  
 107-33 advertisement;  
 107-34 (3) relates to the size or duration of an  
 107-35 advertisement by the temporary permit or certificate holder; or  
 107-36 (4) restricts the temporary permit or certificate  
 107-37 holder's advertisement under a trade name.

107-38 SECTION 2.160. Subchapter B, Chapter 604, Occupations Code,  
 107-39 is amended by adding Sections 604.058, 604.059, and 604.060 to read  
 107-40 as follows:

107-41 Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.  
 107-42 The advisory board shall adopt rules and guidelines as necessary to  
 107-43 comply with Chapter 53, except to the extent the requirements of  
 107-44 this chapter are stricter than the requirements of Chapter 53.

107-45 Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF  
 107-46 RESPONSIBILITIES. (a) The medical board shall provide  
 107-47 administrative and clerical employees as necessary to enable the  
 107-48 advisory board to administer this chapter.

107-49 (b) Subject to the advice and approval of the medical board,  
 107-50 the advisory board shall develop and implement policies that  
 107-51 clearly separate the policy-making responsibilities of the  
 107-52 advisory board and the management responsibilities of the executive  
 107-53 director and staff of the medical board.

107-54 Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice  
 107-55 and approval of the medical board, the advisory board shall develop  
 107-56 and implement policies that provide the public with a reasonable  
 107-57 opportunity to appear before the advisory board and to speak on any  
 107-58 issue under the jurisdiction of the advisory board.

107-59 SECTION 2.161. Section 604.101(b), Occupations Code, as  
 107-60 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 107-61 2015, is amended to read as follows:

107-62 (b) A person may not practice respiratory care other than  
 107-63 under the direction of a qualified medical director or other  
 107-64 physician licensed by the medical board [~~Texas Medical Board~~].

107-65 SECTION 2.162. Section 604.103, Occupations Code, as  
 107-66 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 107-67 2015, is amended to read as follows:

107-68 Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant  
 107-69 for a certificate or temporary permit must:

108-1 (1) apply to the advisory board [~~department~~] on a form  
 108-2 prescribed by [~~the department~~] and under rules adopted by the  
 108-3 advisory board [~~executive commissioner~~]; and

108-4 (2) submit a nonrefundable application fee with the  
 108-5 application.

108-6 SECTION 2.163. Subchapter C, Chapter 604, Occupations Code,  
 108-7 is amended by adding Section 604.1031 to read as follows:

108-8 Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION  
 108-9 REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory  
 108-10 board shall require that an applicant for a certificate or  
 108-11 temporary permit submit a complete and legible set of fingerprints,  
 108-12 on a form prescribed by the advisory board, to the advisory board or  
 108-13 to the Department of Public Safety for the purpose of obtaining  
 108-14 criminal history record information from the Department of Public  
 108-15 Safety and the Federal Bureau of Investigation.

108-16 (b) The advisory board may not issue a certificate or  
 108-17 temporary permit to a person who does not comply with the  
 108-18 requirement of Subsection (a).

108-19 (c) The advisory board shall conduct a criminal history  
 108-20 check of each applicant for a certificate or temporary permit using  
 108-21 information:

108-22 (1) provided by the individual under this section; and

108-23 (2) made available to the advisory board by the  
 108-24 Department of Public Safety, the Federal Bureau of Investigation,  
 108-25 and any other criminal justice agency under Chapter 411, Government  
 108-26 Code.

108-27 (d) The advisory board may:

108-28 (1) enter into an agreement with the Department of  
 108-29 Public Safety to administer a criminal history check required under  
 108-30 this section; and

108-31 (2) authorize the Department of Public Safety to  
 108-32 collect from each applicant the costs incurred by the Department of  
 108-33 Public Safety in conducting the criminal history check.

108-34 SECTION 2.164. Section 604.104, Occupations Code, is  
 108-35 amended to read as follows:

108-36 Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant  
 108-37 for a certificate must submit to the advisory board [~~department~~]  
 108-38 written evidence, verified by oath, that the applicant has  
 108-39 completed:

108-40 (1) an approved four-year high school course of study  
 108-41 or the equivalent as determined by the appropriate educational  
 108-42 agency; and

108-43 (2) a respiratory care education program approved by  
 108-44 the advisory board [~~department~~].

108-45 SECTION 2.165. Section 604.1041, Occupations Code, as  
 108-46 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 108-47 2015, is amended to read as follows:

108-48 Sec. 604.1041. EXAMINATION. (a) The advisory board  
 108-49 [~~executive commissioner~~] by rule shall establish examination  
 108-50 requirements for a certificate under this chapter. The advisory  
 108-51 board [~~executive commissioner~~] may use the entry level examination  
 108-52 prepared by the National Board for Respiratory Care or an  
 108-53 equivalent examination.

108-54 (b) An applicant for a certificate or temporary permit must  
 108-55 pass a jurisprudence examination approved by the advisory board.

108-56 SECTION 2.166. Section 604.1042, Occupations Code, is  
 108-57 amended to read as follows:

108-58 Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS.

108-59 (a) Not later than the 30th day after the date a person takes a  
 108-60 certification examination under this chapter, the advisory board  
 108-61 [~~department~~] shall notify the person of the results of the  
 108-62 examination.

108-63 (b) If the examination is graded or reviewed by a testing  
 108-64 service, the advisory board [~~department~~] shall notify the person of  
 108-65 the results of the examination not later than the 14th day after the  
 108-66 date the advisory board [~~department~~] receives the results from the  
 108-67 testing service. If notice of the examination results will be  
 108-68 delayed for longer than 90 days after the examination date, the  
 108-69 advisory board [~~department~~] shall notify the person of the reason

109-1 for the delay before the 90th day.

109-2 (c) The advisory board [~~department~~] may require a testing  
109-3 service to notify a person of the results of the person's  
109-4 examination.

109-5 (d) If requested in writing by a person who fails a  
109-6 certification examination administered under this chapter, the  
109-7 advisory board [~~department~~] shall furnish the person with an  
109-8 analysis of the person's performance on the examination.

109-9 SECTION 2.167. Section 604.105, Occupations Code, is  
109-10 amended to read as follows:

109-11 Sec. 604.105. ISSUANCE OF CERTIFICATE. The advisory board  
109-12 [~~department~~] shall issue a certificate to an applicant who:

109-13 (1) meets the minimum qualifications [~~standards~~]  
109-14 adopted under Section 604.052(a);

109-15 (2) passes the required examinations;

109-16 (3) complies with the criminal history record  
109-17 information requirement of Section 604.1031;

109-18 (4) submits an application on a form prescribed by the  
109-19 advisory board;

109-20 (5) certifies that the applicant is mentally and  
109-21 physically able to be a respiratory care practitioner;

109-22 (6) submits to the advisory board any other  
109-23 information the advisory board considers necessary to evaluate the  
109-24 applicant's qualifications; and

109-25 (7) pays the certificate fee.

109-26 SECTION 2.168. Section 604.106, Occupations Code, is  
109-27 amended to read as follows:

109-28 Sec. 604.106. ISSUANCE OF CERTIFICATE BY RECIPROCITY. The  
109-29 advisory board [~~department~~] may issue a certificate to a person who  
109-30 is licensed or certified to practice respiratory care by another  
109-31 state whose requirements for licensure or certification were on the  
109-32 date the license or certificate was issued substantially equal to  
109-33 the requirements of this chapter.

109-34 SECTION 2.169. Section 604.107, Occupations Code, is  
109-35 amended to read as follows:

109-36 Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. An  
109-37 applicant for a temporary permit to practice respiratory care must  
109-38 submit to the advisory board:

109-39 (1) [~~department~~] written evidence, verified by oath,  
109-40 that the applicant is:

109-41 (A) [~~(1)~~] practicing or has within the 12-month  
109-42 period preceding the application date practiced respiratory care in  
109-43 another state or country and is licensed to practice respiratory  
109-44 care in that state or country;

109-45 (B) [~~(2)~~] a student in an approved respiratory  
109-46 care education program who expects to graduate from the program not  
109-47 later than the 30th day after the date the temporary permit is  
109-48 issued; or

109-49 (C) [~~(3)~~] a graduate of an approved respiratory  
109-50 care education program; and

109-51 (2) any additional information required by advisory  
109-52 board rules.

109-53 SECTION 2.170. Section 604.108, Occupations Code, is  
109-54 amended by amending Subsection (a) and Subsection (b), as amended  
109-55 by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to  
109-56 read as follows:

109-57 (a) The advisory board [~~department~~] shall issue a temporary  
109-58 permit to an applicant who:

109-59 (1) meets the requirements of Sections 604.103 and  
109-60 604.107;

109-61 (2) complies with the criminal history record  
109-62 information requirement of Section 604.1031; and

109-63 (3) pays the permit fee.

109-64 (b) A temporary permit is valid for the period set by  
109-65 advisory board [~~department~~] rule. The period may not be less than  
109-66 six months or more than 12 months.

109-67 SECTION 2.171. Subchapter C, Chapter 604, Occupations Code,  
109-68 is amended by adding Section 604.110 to read as follows:

109-69 Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE

110-1 OR TEMPORARY PERMIT. The advisory board may delegate authority to  
 110-2 medical board employees to issue certificates or temporary permits  
 110-3 under this chapter to applicants who clearly meet all applicable  
 110-4 requirements. If the medical board employees determine that the  
 110-5 applicant does not clearly meet all applicable requirements, the  
 110-6 application must be returned to the advisory board. A certificate  
 110-7 or temporary permit issued under this section does not require  
 110-8 formal advisory board approval.

110-9 SECTION 2.172. Section 604.151(b), Occupations Code, as  
 110-10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 110-11 2015, is amended to read as follows:

110-12 (b) The advisory board [~~executive commissioner~~] by rule may  
 110-13 adopt a system under which certificates expire on various dates  
 110-14 during the year. For the year in which the certificate expiration  
 110-15 date is changed, the advisory board [~~department~~] shall prorate  
 110-16 certificate fees on a monthly basis so that each certificate holder  
 110-17 pays only that portion of the certificate fee that is allocable to  
 110-18 the number of months during which the certificate is valid. On  
 110-19 renewal of the certificate on the new expiration date, the total  
 110-20 certificate renewal fee is payable.

110-21 SECTION 2.173. Section 604.152, Occupations Code, is  
 110-22 amended to read as follows:

110-23 Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not  
 110-24 later than the 30th day before the expiration date of a person's  
 110-25 certificate, the advisory board [~~department~~] shall mail a renewal  
 110-26 notice to the person at the person's last known address.

110-27 (b) To renew a certificate, the certificate holder must:  
 110-28 (1) complete the renewal notice and return the notice  
 110-29 with the renewal fee to the advisory board [~~department~~] on or before  
 110-30 the expiration date; and

110-31 (2) meet any other requirement established by advisory  
 110-32 board rule.

110-33 SECTION 2.174. Sections 604.1521(a) and (b), Occupations  
 110-34 Code, are amended to read as follows:

110-35 (a) A person whose certificate has been expired for 90 days  
 110-36 or less may renew the certificate by paying to the advisory board  
 110-37 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally  
 110-38 required renewal fee.

110-39 (b) A person whose certificate has been expired for more  
 110-40 than 90 days but less than one year may renew the certificate by  
 110-41 paying to the advisory board [~~department~~] a renewal fee that is  
 110-42 equal to two times the normally required renewal fee.

110-43 SECTION 2.175. Section 604.1522(b), Occupations Code, is  
 110-44 amended to read as follows:

110-45 (b) The person must pay to the advisory board [~~department~~] a  
 110-46 fee that is equal to two times the normally required renewal fee for  
 110-47 the certificate.

110-48 SECTION 2.176. Subchapter D, Chapter 604, Occupations Code,  
 110-49 is amended by adding Section 604.1523 to read as follows:

110-50 Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION  
 110-51 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a  
 110-52 certificate or temporary permit shall submit a complete and legible  
 110-53 set of fingerprints for purposes of performing a criminal history  
 110-54 check of the applicant as provided by Section 604.1031.

110-55 (b) The advisory board may not renew the certificate or  
 110-56 temporary permit of a person who does not comply with the  
 110-57 requirement of Subsection (a).

110-58 (c) A person is not required to submit fingerprints under  
 110-59 this section for the renewal of a certificate or temporary permit if  
 110-60 the person has previously submitted fingerprints under:

110-61 (1) Section 604.1031 for the initial issuance of the  
 110-62 certificate or permit; or

110-63 (2) this section as part of a prior renewal of a  
 110-64 certificate or permit.

110-65 SECTION 2.177. Section 604.153(a), Occupations Code, is  
 110-66 amended to read as follows:

110-67 (a) The advisory board [~~department~~] shall issue to the  
 110-68 certificate holder a certificate for the renewal period on receipt  
 110-69 of the completed renewal notice and other information required by

111-1 advisory board rule and payment of the renewal fee.

111-2 SECTION 2.178. Section 604.154, Occupations Code, as  
111-3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
111-4 2015, is amended to read as follows:

111-5 Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The  
111-6 advisory board [~~executive commissioner~~] shall establish for the  
111-7 renewal of a certificate uniform continuing education requirements  
111-8 of not less than 12 or more than 24 continuing education hours for  
111-9 each renewal period.

111-10 (b) The advisory board [~~executive commissioner~~] may adopt  
111-11 rules relating to meeting the continuing education requirements in  
111-12 a hardship situation.

111-13 SECTION 2.179. Section 604.156, Occupations Code, as  
111-14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
111-15 2015, is amended to read as follows:

111-16 Sec. 604.156. INACTIVE STATUS. (a) A respiratory care  
111-17 practitioner who does not practice respiratory care during a  
111-18 renewal period and who notifies the advisory board [~~department~~]  
111-19 that the practitioner is not practicing respiratory care is not  
111-20 required to pay the renewal fee until the practitioner resumes  
111-21 practice.

111-22 (b) To resume the practice of respiratory care, the  
111-23 practitioner must:

- 111-24 (1) notify the advisory board [~~department~~];  
111-25 (2) satisfy requirements adopted by the advisory board  
111-26 [~~executive commissioner~~]; and  
111-27 (3) pay the reinstatement fee and the renewal fee for  
111-28 the renewal period in which the practitioner will resume practice.

111-29 SECTION 2.180. Section 604.157(b), Occupations Code, as  
111-30 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
111-31 2015, is amended to read as follows:

111-32 (b) The advisory board [~~department~~] may renew a temporary  
111-33 permit for not more than one additional period, pending compliance  
111-34 with this chapter and advisory board [~~department~~] rules. The  
111-35 additional period may not be less than six months or more than 12  
111-36 months.

111-37 SECTION 2.181. Chapter 604, Occupations Code, is amended by  
111-38 adding Subchapter D-1 to read as follows:

111-39 SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

111-40 Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) The  
111-41 advisory board shall maintain a system to promptly and efficiently  
111-42 act on complaints filed with the advisory board. The advisory  
111-43 board shall maintain:

- 111-44 (1) information about the parties to the complaint and  
111-45 the subject matter of the complaint;  
111-46 (2) a summary of the results of the review or  
111-47 investigation of the complaint; and  
111-48 (3) information about the disposition of the  
111-49 complaint.

111-50 (b) The advisory board shall make information available  
111-51 describing its procedures for complaint investigation and  
111-52 resolution.

111-53 (c) If a written complaint is filed with the advisory board  
111-54 relating to a certificate or temporary permit holder, the advisory  
111-55 board, as often as quarterly and until final determination of the  
111-56 action to be taken on the complaint, shall notify the parties to the  
111-57 complaint of the status of the complaint unless the notice would  
111-58 jeopardize an active investigation.

111-59 Sec. 604.172. CONDUCT OF INVESTIGATION. The advisory board  
111-60 shall complete a preliminary investigation of a complaint filed  
111-61 with the advisory board not later than the 45th day after the date  
111-62 of receiving the complaint. The advisory board shall first  
111-63 determine whether the person constitutes a continuing threat to the  
111-64 public welfare. On completion of the preliminary investigation,  
111-65 the advisory board shall determine whether to officially proceed on  
111-66 the complaint. If the advisory board fails to complete the  
111-67 preliminary investigation in the time required by this section, the  
111-68 advisory board's official investigation of the complaint is  
111-69 considered to commence on that date.

112-1 Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except  
 112-2 as provided by Subsection (b), the advisory board shall provide a  
 112-3 person who is the subject of a formal complaint filed under this  
 112-4 chapter with access to all information in its possession that the  
 112-5 advisory board intends to offer into evidence in presenting its  
 112-6 case in chief at the contested hearing on the complaint, subject to  
 112-7 any other privilege or restriction established by rule, statute, or  
 112-8 legal precedent. The advisory board shall provide the information  
 112-9 not later than the 30th day after receipt of a written request from  
 112-10 the person or the person's counsel, unless good cause is shown for  
 112-11 delay.

112-12 (b) The advisory board is not required to provide:  
 112-13 (1) advisory board investigative reports;  
 112-14 (2) investigative memoranda;  
 112-15 (3) the identity of a nontestifying complainant;  
 112-16 (4) attorney-client communications;  
 112-17 (5) attorney work product; or  
 112-18 (6) other material covered by a privilege recognized  
 112-19 by the Texas Rules of Civil Procedure or the Texas Rules of  
 112-20 Evidence.

112-21 (c) Providing information under this section does not  
 112-22 constitute a waiver of privilege or confidentiality under this  
 112-23 chapter or other law.

112-24 Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION.  
 112-25 On the written request of a health care entity, the advisory board  
 112-26 shall provide to the entity:

112-27 (1) information about a complaint filed against a  
 112-28 person that was resolved after investigation by:

112-29 (A) a disciplinary order of the advisory board;  
 112-30 or

112-31 (B) an agreed settlement; and  
 112-32 (2) the basis of and current status of any complaint  
 112-33 that has been referred by the executive director of the medical  
 112-34 board for enforcement action.

112-35 Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE  
 112-36 INFORMATION. A complaint, adverse report, investigation file,  
 112-37 other report, or other investigative information in the possession  
 112-38 of or received or gathered by the advisory board, the medical board,  
 112-39 or an employee or agent of the medical board relating to a  
 112-40 certificate or temporary permit holder, an application for a  
 112-41 certificate or temporary permit, or a criminal investigation or  
 112-42 proceeding is privileged and confidential and is not subject to  
 112-43 discovery, subpoena, or other means of legal compulsion for release  
 112-44 to any person other than the advisory board, the medical board, or  
 112-45 an employee or agent of the advisory board or medical board involved  
 112-46 in discipline under this chapter. For purposes of this section,  
 112-47 "investigative information" includes information related to the  
 112-48 identity of a person performing or supervising compliance  
 112-49 monitoring for the advisory board or medical board and a report  
 112-50 prepared by the person related to compliance monitoring.

112-51 Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE  
 112-52 INFORMATION. (a) Investigative information in the possession of  
 112-53 the advisory board, the medical board, or an employee or agent of  
 112-54 the medical board that relates to the discipline of a certificate or  
 112-55 temporary permit holder may be disclosed to:

112-56 (1) a licensing authority in another state or country  
 112-57 in which the certificate or temporary permit holder is licensed,  
 112-58 certified, or permitted or has applied for a license,  
 112-59 certification, or permit; or

112-60 (2) a medical peer review committee reviewing:  
 112-61 (A) an application for privileges; or  
 112-62 (B) the qualifications of the certificate holder  
 112-63 or person with respect to retaining privileges.

112-64 (b) If investigative information in the possession of the  
 112-65 advisory board, the medical board, or an employee or agent of the  
 112-66 medical board indicates that a crime may have been committed, the  
 112-67 advisory board or medical board, as appropriate, shall report the  
 112-68 information to the proper law enforcement agency. The advisory  
 112-69 board and medical board shall cooperate with and assist each law

113-1 enforcement agency conducting a criminal investigation of a  
 113-2 certificate or temporary permit holder by providing information  
 113-3 relevant to the investigation. Confidential information disclosed  
 113-4 to a law enforcement agency under this subsection remains  
 113-5 confidential and may not be disclosed by the law enforcement agency  
 113-6 except as necessary to further the investigation.

113-7 SECTION 2.182. Section 604.201, Occupations Code, is  
 113-8 amended to read as follows:

113-9 Sec. 604.201. DISCIPLINARY ACTION. (a) For a violation of  
 113-10 this chapter or a rule adopted under this chapter, the advisory  
 113-11 board [~~department~~] may:

113-12 (1) deny, suspend, suspend on an emergency basis,  
 113-13 restrict, revoke, or refuse to renew a certificate or temporary  
 113-14 permit;

113-15 (2) place the certificate or permit holder on  
 113-16 probation under conditions set by the advisory board [~~department~~];  
 113-17 or

113-18 (3) reprimand the certificate or permit holder.

113-19 (b) The advisory board [~~department~~] shall take disciplinary  
 113-20 action authorized under Subsection (a) if the advisory board  
 113-21 [~~department~~] determines that a person who holds a certificate or  
 113-22 temporary permit:

113-23 (1) is guilty of fraud or deceit in procuring,  
 113-24 renewing, or attempting to procure a certificate or temporary  
 113-25 permit;

113-26 (2) is unfit or incompetent because of negligence or  
 113-27 another cause of incompetency;

113-28 (3) is addicted to or has improperly obtained,  
 113-29 possessed, used, or distributed a habit-forming drug or narcotic or  
 113-30 is habitually intemperate in the use of alcoholic beverages;

113-31 (4) is guilty of dishonest or unethical conduct as  
 113-32 determined by the advisory board [~~department~~];

113-33 (5) has practiced respiratory care after the person's  
 113-34 certificate or temporary permit has expired;

113-35 (6) has practiced respiratory care under a certificate  
 113-36 or temporary permit illegally or fraudulently obtained or issued;

113-37 (7) has practiced respiratory care without the  
 113-38 direction of a qualified medical director or other licensed  
 113-39 physician; [~~or~~]

113-40 (8) has violated this chapter or aided or abetted  
 113-41 another in violating this chapter; or

113-42 (9) has violated:

113-43 (A) a rule adopted under this chapter;

113-44 (B) an order of the advisory board previously  
 113-45 entered in a disciplinary proceeding; or

113-46 (C) an order to comply with a subpoena issued  
 113-47 under this chapter.

113-48 SECTION 2.183. Subchapter E, Chapter 604, Occupations Code,  
 113-49 is amended by adding Section 604.2011 to read as follows:

113-50 Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY  
 113-51 PERMIT. (a) The advisory board may accept the voluntary surrender  
 113-52 of a certificate or temporary permit. A person who has surrendered a  
 113-53 certificate or temporary permit may not engage in activities that  
 113-54 require a certificate or permit, and the advisory board may not  
 113-55 return the certificate or permit to the person, until the person  
 113-56 demonstrates to the satisfaction of the advisory board that the  
 113-57 person is able to resume practice as a respiratory care  
 113-58 practitioner.

113-59 (b) The advisory board shall by rule establish guidelines  
 113-60 for determining when a person is competent to resume practice as a  
 113-61 respiratory care practitioner.

113-62 SECTION 2.184. Section 604.202, Occupations Code, is  
 113-63 amended to read as follows:

113-64 Sec. 604.202. EMERGENCY SUSPENSION. (a) The presiding  
 113-65 officer of the advisory board shall appoint a three-member  
 113-66 disciplinary panel consisting of advisory board members to  
 113-67 determine whether a certificate or permit should be temporarily  
 113-68 suspended.

113-69 (a-1) The disciplinary panel shall temporarily [~~department~~

114-1 ~~may~~ suspend a certificate or temporary permit issued under this  
 114-2 chapter on a determination that continued practice by a certificate  
 114-3 or temporary permit holder would constitute a continuing threat to  
 114-4 the public welfare [~~the health and safety of a person is threatened~~  
 114-5 ~~and may make the suspension effective immediately~~].

114-6 (b) A [~~person whose~~] certificate or temporary permit may be  
 114-7 [is] suspended under this section without notice or hearing on the  
 114-8 complaint if:

114-9 (1) action is taken to initiate proceedings for [is  
 114-10 entitled to] a hearing before the advisory board simultaneously  
 114-11 with the temporary suspension; and

114-12 (2) a hearing is held as soon as practicable under this  
 114-13 chapter and Chapter 2001, Government Code [~~department not later~~  
 114-14 ~~than the 10th day after the effective date of the emergency~~  
 114-15 ~~suspension~~].

114-16 (c) Notwithstanding Chapter 551, Government Code, the  
 114-17 disciplinary panel may hold a meeting by telephone conference call  
 114-18 if immediate action is required and convening of the panel at one  
 114-19 location is inconvenient for any member of the panel.

114-20 SECTION 2.185. Section 604.203, Occupations Code, as  
 114-21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 114-22 2015, is amended to read as follows:

114-23 Sec. 604.203. ADMINISTRATIVE [DISCIPLINARY] PROCEDURE FOR  
 114-24 CONTESTED CASE HEARING. For a contested case hearing in which a  
 114-25 formal complaint has been filed under this chapter, the [The]  
 114-26 procedure by which the advisory board [department] takes a  
 114-27 disciplinary action and the procedure by which a disciplinary  
 114-28 action is appealed are governed by:

114-29 (1) advisory board [department] rules for a contested  
 114-30 case hearing; and

114-31 (2) Chapter 2001, Government Code.

114-32 SECTION 2.186. Subchapter E, Chapter 604, Occupations Code,  
 114-33 is amended by adding Sections 604.205 through 604.214 to read as  
 114-34 follows:

114-35 Sec. 604.205. DELEGATION OF CERTAIN COMPLAINT  
 114-36 DISPOSITIONS. (a) The advisory board may delegate to a committee  
 114-37 of medical board employees the authority to dismiss or enter into an  
 114-38 agreed settlement of a complaint that does not relate directly to  
 114-39 patient care or that involves only administrative violations. The  
 114-40 disposition determined by the committee must be approved by the  
 114-41 advisory board at a public meeting.

114-42 (b) A complaint delegated under this section shall be  
 114-43 referred for an informal proceeding under Section 604.209 if:

114-44 (1) the committee of employees determines that the  
 114-45 complaint should not be dismissed or settled;

114-46 (2) the committee is unable to reach an agreed  
 114-47 settlement; or

114-48 (3) the affected person requests that the complaint be  
 114-49 referred for an informal proceeding.

114-50 Sec. 604.206. SUBPOENA. (a) The executive director of the  
 114-51 medical board, the director's designee, or the secretary-treasurer  
 114-52 of the medical board may issue a subpoena or subpoena duces tecum  
 114-53 for the advisory board:

114-54 (1) to conduct an investigation or a contested  
 114-55 proceeding related to:

114-56 (A) alleged misconduct by a certificate or  
 114-57 temporary permit holder;

114-58 (B) an alleged violation of this chapter or other  
 114-59 law related to respiratory care; or

114-60 (C) the provision of health care under this  
 114-61 chapter; or

114-62 (2) for purposes of determining whether to issue,  
 114-63 suspend, restrict, or revoke a certificate or temporary permit  
 114-64 under this chapter.

114-65 (b) Failure to timely comply with a subpoena issued under  
 114-66 this section is a ground for:

114-67 (1) disciplinary action by the advisory board or  
 114-68 another licensing or regulatory agency with jurisdiction over the  
 114-69 person subject to the subpoena; and

115-1 (2) denial of an application for a certificate or  
 115-2 temporary permit.

115-3 Sec. 604.207. PROTECTION OF PATIENT IDENTITY. In a  
 115-4 disciplinary investigation or proceeding conducted under this  
 115-5 chapter, the advisory board shall protect the identity of each  
 115-6 patient whose medical records are examined and used in a public  
 115-7 proceeding unless the patient:

115-8 (1) testifies in the public proceeding; or  
 115-9 (2) submits a written release in regard to the  
 115-10 patient's records or identity.

115-11 Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF  
 115-12 INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Regardless of  
 115-13 the offense, the advisory board shall suspend the certificate or  
 115-14 temporary permit of a person serving a prison term in a state or  
 115-15 federal penitentiary during the term of the incarceration.

115-16 Sec. 604.209. INFORMAL PROCEEDINGS. (a) The advisory  
 115-17 board by rule shall adopt procedures governing:

115-18 (1) informal disposition of a contested case under  
 115-19 Section 2001.056, Government Code; and

115-20 (2) informal proceedings held in compliance with  
 115-21 Section 2001.054, Government Code.

115-22 (b) Rules adopted under this section must require that:

115-23 (1) an informal meeting in compliance with Section  
 115-24 2001.054, Government Code, be scheduled and the advisory board give  
 115-25 notice to the person who is the subject of a complaint of the time  
 115-26 and place of the meeting not later than the 45th day before the date  
 115-27 the meeting is held;

115-28 (2) the complainant and the person who is the subject  
 115-29 of the complaint be provided an opportunity to be heard;

115-30 (3) at least one of the advisory board members  
 115-31 participating in the informal meeting as a panelist be a member who  
 115-32 represents the public;

115-33 (4) a member of the medical board's staff be at the  
 115-34 meeting to present to the advisory board's representative the facts  
 115-35 the staff reasonably believes it could prove by competent evidence  
 115-36 or qualified witnesses at a hearing; and

115-37 (5) the advisory board's legal counsel or a  
 115-38 representative of the attorney general be present to advise the  
 115-39 advisory board or the medical board's staff.

115-40 (c) The person who is the subject of the complaint is  
 115-41 entitled to:

115-42 (1) reply to the staff's presentation; and

115-43 (2) present the facts the person reasonably believes  
 115-44 the person could prove by competent evidence or qualified witnesses  
 115-45 at a hearing.

115-46 (d) After ample time is given for the presentations, the  
 115-47 advisory board representative shall recommend that the  
 115-48 investigation be closed or shall attempt to mediate the disputed  
 115-49 matters and make a recommendation regarding the disposition of the  
 115-50 case in the absence of a hearing under applicable law concerning  
 115-51 contested cases.

115-52 (e) If the person who is the subject of the complaint has  
 115-53 previously been the subject of disciplinary action by the advisory  
 115-54 board, the advisory board shall schedule the informal meeting as  
 115-55 soon as practicable.

115-56 (f) Section 604.175 applies to an investigation file and  
 115-57 investigative information in the possession of or used by the  
 115-58 advisory board in an informal proceeding under this section.

115-59 Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL  
 115-60 PROCEEDINGS. (a) In an informal meeting under Section 604.209, at  
 115-61 least two panelists shall be appointed to determine whether an  
 115-62 informal disposition is appropriate.

115-63 (b) Notwithstanding Subsection (a) and Section  
 115-64 604.209(b)(3), an informal proceeding may be conducted by one  
 115-65 panelist if the person who is the subject of the complaint waives  
 115-66 the requirement that at least two panelists conduct the informal  
 115-67 proceeding. If the person waives that requirement, the panelist  
 115-68 may be any member of the advisory board.

115-69 (c) Except as provided by Subsection (d), the panel

116-1 requirements described by Subsections (a) and (b) apply to an  
116-2 informal proceeding conducted by the advisory board under Section  
116-3 604.209, including a proceeding to:

116-4 (1) consider a disciplinary case to determine if a  
116-5 violation has occurred; or

116-6 (2) request modification or termination of an order.

116-7 (d) The panel requirements described by Subsections (a) and  
116-8 (b) do not apply to an informal proceeding conducted by the advisory  
116-9 board under Section 604.209 to show compliance with an order of the  
116-10 advisory board.

116-11 Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN  
116-12 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as  
116-13 a panelist at an informal meeting under Section 604.209 shall make  
116-14 recommendations for the disposition of a complaint or allegation.  
116-15 The member may request the assistance of a medical board employee at  
116-16 any time.

116-17 (b) Medical board employees shall present a summary of the  
116-18 allegations against the person who is the subject of the complaint  
116-19 and of the facts pertaining to the allegation that the employees  
116-20 reasonably believe may be proven by competent evidence at a formal  
116-21 hearing.

116-22 (c) An attorney for the advisory board or medical board  
116-23 shall act as counsel to the panel and, notwithstanding Subsection  
116-24 (e), shall be present during the informal meeting and the panel's  
116-25 deliberations to advise the panel on legal issues that arise during  
116-26 the proceeding. The attorney may ask questions of a participant in  
116-27 the informal meeting to clarify any statement made by the  
116-28 participant. The attorney shall provide to the panel a historical  
116-29 perspective on comparable cases that have appeared before the  
116-30 advisory board or medical board, keep the proceedings focused on  
116-31 the case being discussed, and ensure that the medical board's  
116-32 employees and the person who is the subject of the complaint have an  
116-33 opportunity to present information related to the case. During the  
116-34 panel's deliberations, the attorney may be present only to advise  
116-35 the panel on legal issues and to provide information on comparable  
116-36 cases that have appeared before the advisory board or medical  
116-37 board.

116-38 (d) The panel and medical board employees shall provide an  
116-39 opportunity for the person who is the subject of the complaint and  
116-40 the person's authorized representative to reply to the medical  
116-41 board employees' presentation and to present oral and written  
116-42 statements and facts that the person and representative reasonably  
116-43 believe could be proven by competent evidence at a formal hearing.

116-44 (e) An employee of the medical board who participated in the  
116-45 presentation of the allegation or information gathered in the  
116-46 investigation of the complaint, the person who is the subject of the  
116-47 complaint, the person's authorized representative, the  
116-48 complainant, the witnesses, and members of the public may not be  
116-49 present during the deliberations of the panel. Only the members of  
116-50 the panel and the attorney serving as counsel to the panel may be  
116-51 present during the deliberations.

116-52 (f) The panel shall recommend the dismissal of the complaint  
116-53 or allegations or, if the panel determines that the person has  
116-54 violated a statute or advisory board rule, the panel may recommend  
116-55 advisory board action and terms for an informal settlement of the  
116-56 case.

116-57 (g) The panel's recommendations under Subsection (f) must  
116-58 be made in a written order and presented to the affected person and  
116-59 the person's authorized representative. The person may accept the  
116-60 proposed settlement within the time established by the panel at the  
116-61 informal meeting. If the person rejects the proposed settlement or  
116-62 does not act within the required time, the advisory board may  
116-63 proceed with the filing of a formal complaint with the State Office  
116-64 of Administrative Hearings.

116-65 Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. The  
116-66 advisory board shall prohibit or limit access to an investigation  
116-67 file relating to a person subject to an informal proceeding in the  
116-68 manner provided by Sections 164.007(c) and 604.175.

116-69 Sec. 604.213. REFUND. (a) Subject to Subsection (b), the

117-1 advisory board may order a certificate or temporary permit holder  
 117-2 to pay a refund to a consumer as provided in an agreement resulting  
 117-3 from an informal settlement conference instead of or in addition to  
 117-4 imposing an administrative penalty under Subchapter F.

117-5 (b) The amount of a refund ordered as provided in an  
 117-6 agreement resulting from an informal settlement conference may not  
 117-7 exceed the amount the consumer paid to the certificate or temporary  
 117-8 permit holder for a service regulated by this chapter. The advisory  
 117-9 board may not require payment of other damages or estimate harm in a  
 117-10 refund order.

117-11 Sec. 604.214. EXPERT IMMUNITY. An expert who assists the  
 117-12 advisory board is immune from suit and judgment and may not be  
 117-13 subjected to a suit for damages for any investigation, report,  
 117-14 recommendation, statement, evaluation, finding, or other action  
 117-15 taken in the course of assisting the advisory board in a  
 117-16 disciplinary proceeding. The attorney general shall represent the  
 117-17 expert in any suit resulting from a service provided by the person  
 117-18 in good faith to the advisory board.

117-19 SECTION 2.187. Section 604.301, Occupations Code, is  
 117-20 amended to read as follows:

117-21 Sec. 604.301. IMPOSITION OF PENALTY. The advisory board  
 117-22 [~~department~~] may impose an administrative penalty on a person who  
 117-23 violates this chapter or a rule adopted under this chapter.

117-24 SECTION 2.188. Section 604.303, Occupations Code, is  
 117-25 amended to read as follows:

117-26 Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after  
 117-27 investigation of a possible violation and the facts surrounding the  
 117-28 possible violation, the advisory board [~~department~~] determines  
 117-29 that a violation occurred, the advisory board [~~department~~] shall  
 117-30 give written notice of the violation to the person alleged to have  
 117-31 committed the violation. The notice must:

117-32 (1) include a brief summary of the alleged violation;  
 117-33 (2) state the amount of the proposed administrative  
 117-34 penalty based on the factors set forth in Section 604.302(b); and  
 117-35 (3) inform the person of the person's right to a  
 117-36 hearing on the occurrence of the violation, the amount of the  
 117-37 penalty, or both.

117-38 SECTION 2.189. Section 604.304, Occupations Code, as  
 117-39 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 117-40 2015, is amended to read as follows:

117-41 Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED.  
 117-42 (a) Not later than the 20th day after the date the person receives  
 117-43 the notice under Section 604.303, the person may:

117-44 (1) accept the advisory board's [~~department's~~]  
 117-45 determination and proposed administrative penalty; or  
 117-46 (2) make a written request for a hearing on that  
 117-47 determination.

117-48 (b) If the person accepts the [~~department's~~] determination,  
 117-49 the advisory board [~~department~~] by order shall approve the  
 117-50 determination and assess the proposed penalty.

117-51 SECTION 2.190. Section 604.305, Occupations Code, as  
 117-52 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 117-53 2015, is amended to read as follows:

117-54 Sec. 604.305. HEARING. (a) If the person requests a  
 117-55 hearing in a timely manner, the advisory board [~~department~~] shall:

117-56 (1) set a hearing; and  
 117-57 (2) give written notice of the hearing to the person.

117-58 (b) The hearings examiner shall:  
 117-59 (1) make findings of fact and conclusions of law; and  
 117-60 (2) promptly issue to the advisory board [~~department~~]  
 117-61 a proposal for decision as to the occurrence of the violation and  
 117-62 the amount of any proposed administrative penalty.

117-63 SECTION 2.191. Section 604.306, Occupations Code, as  
 117-64 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 117-65 2015, is amended to read as follows:

117-66 Sec. 604.306. DECISION BY ADVISORY BOARD [~~DEPARTMENT~~].  
 117-67 (a) Based on the findings of fact, conclusions of law, and  
 117-68 proposal for decision, the advisory board [~~department~~] by order may  
 117-69 determine that:

118-1 (1) a violation occurred and impose an administrative  
118-2 penalty; or

118-3 (2) a violation did not occur.  
118-4 (b) The advisory board [~~department~~] shall give notice of the  
118-5 order to the person. The notice must include:

118-6 (1) separate statements of the findings of fact and  
118-7 conclusions of law;

118-8 (2) the amount of any penalty imposed; and

118-9 (3) a statement of the person's right to judicial  
118-10 review of the order.

118-11 SECTION 2.192. Sections 604.307(b) and (c), Occupations  
118-12 Code, are amended to read as follows:

118-13 (b) Within the 30-day period, a person who acts under  
118-14 Subsection (a)(3) may:

118-15 (1) stay enforcement of the penalty by:

118-16 (A) paying the penalty to the court for placement  
118-17 in an escrow account; or

118-18 (B) giving to the court a supersedeas bond  
118-19 approved by the court that:

118-20 (i) is for the amount of the penalty; and

118-21 (ii) is effective until judicial review of  
118-22 the order is final; or

118-23 (2) request the court to stay enforcement of the  
118-24 penalty by:

118-25 (A) filing with the court a sworn affidavit of  
118-26 the person stating that the person is financially unable to pay the  
118-27 penalty and is financially unable to give the supersedeas bond; and

118-28 (B) giving a copy of the affidavit to the  
118-29 advisory board [~~department~~] by certified mail.

118-30 (c) If the advisory board [~~department~~] receives a copy of an  
118-31 affidavit under Subsection (b)(2), the advisory board [~~department~~]  
118-32 may file with the court a contest to the affidavit not later than  
118-33 the fifth day after the date the copy is received.

118-34 SECTION 2.193. Section 604.308, Occupations Code, is  
118-35 amended to read as follows:

118-36 Sec. 604.308. COLLECTION OF PENALTY. If the person does not  
118-37 pay the penalty and enforcement of the penalty is not stayed, the  
118-38 advisory board [~~department~~] may refer the matter to the attorney  
118-39 general for collection of the penalty.

118-40 SECTION 2.194. Section 604.311, Occupations Code, as  
118-41 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
118-42 2015, is amended to read as follows:

118-43 Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS.  
118-44 (a) In this section, "reasonable expenses and costs" includes  
118-45 expenses incurred by the advisory board [~~department~~] or the  
118-46 attorney general in the investigation, initiation, or prosecution  
118-47 of an action, including reasonable investigative costs, court  
118-48 costs, attorney's fees, witness fees, and deposition expenses.

118-49 (b) The advisory board [~~department~~] may assess reasonable  
118-50 expenses and costs against a person in an administrative hearing  
118-51 if, as a result of the hearing, an administrative penalty is  
118-52 assessed against the person. The person shall pay expenses and  
118-53 costs assessed under this subsection not later than the 30th day  
118-54 after the date the order of the advisory board [~~department~~]  
118-55 requiring the payment of expenses and costs is final. The advisory  
118-56 board [~~department~~] may refer the matter to the attorney general for  
118-57 collection of the expenses and costs.

118-58 (c) If the attorney general brings an action against a  
118-59 person to enforce an administrative penalty assessed under this  
118-60 subchapter and the person is found liable for an administrative  
118-61 penalty, the attorney general may recover, on behalf of the  
118-62 attorney general and the advisory board [~~department~~], reasonable  
118-63 expenses and costs.

118-64 SECTION 2.195. The heading to Subchapter G, Chapter 604,  
118-65 Occupations Code, is amended to read as follows:

118-66 SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

118-67 SECTION 2.196. Section 604.352(a), Occupations Code, is  
118-68 amended to read as follows:

118-69 (a) A person commits an offense if the person knowingly:

- 119-1 (1) sells, fraudulently obtains, or furnishes a  
119-2 respiratory care diploma, certificate, temporary permit, or  
119-3 record;
- 119-4 (2) practices respiratory care under a respiratory  
119-5 care diploma, certificate, temporary permit, or record illegally or  
119-6 fraudulently obtained or issued;
- 119-7 (3) impersonates in any manner a respiratory care  
119-8 practitioner;
- 119-9 (4) practices respiratory care while the person's  
119-10 certificate or temporary permit is suspended, revoked, or expired;
- 119-11 (5) conducts a formal respiratory care education  
119-12 program to prepare respiratory care personnel other than a program  
119-13 approved by the advisory board [~~department~~];
- 119-14 (6) employs a person as a respiratory care  
119-15 practitioner who does not hold a certificate or temporary permit in  
119-16 the practice of respiratory care; or
- 119-17 (7) otherwise practices medicine in violation of  
119-18 Section 604.002.

119-19 SECTION 2.197. The following provisions of the Occupations  
119-20 Code, including provisions amended by S.B. 219, Acts of the 84th  
119-21 Legislature, Regular Session, 2015, are repealed:

- 119-22 (1) Sections 601.002(2) and (5);
- 119-23 (2) Section 601.051;
- 119-24 (3) Section 601.053;
- 119-25 (4) Section 601.056(b);
- 119-26 (5) Section 601.103;
- 119-27 (6) Sections 602.002(1-a) and (2);
- 119-28 (7) Sections 602.052(b) and (c);
- 119-29 (8) Sections 602.053(a), (b), and (c);
- 119-30 (9) Section 602.056(c);
- 119-31 (10) Section 602.059;
- 119-32 (11) Subchapter C, Chapter 602;
- 119-33 (12) Sections 602.1525(b), (c), (d), (e), (f), and  
119-34 (g);
- 119-35 (13) Section 602.155;
- 119-36 (14) Section 602.204;
- 119-37 (15) Sections 603.002(1) and (4);
- 119-38 (16) Section 603.005;
- 119-39 (17) Section 603.054(c);
- 119-40 (18) Section 603.058;
- 119-41 (19) Subchapter C, Chapter 603;
- 119-42 (20) Section 603.154(b);
- 119-43 (21) Section 603.158;
- 119-44 (22) Section 603.159;
- 119-45 (23) Sections 603.2041(b), (c), (d), (f), and (g);
- 119-46 (24) Section 604.051;
- 119-47 (25) Sections 604.052(b) and (c); and
- 119-48 (26) Section 604.056.

119-49 SECTION 2.198. Sections 601.1031, 601.1111, 602.2081,  
119-50 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations  
119-51 Code, as added by this article, apply only to an application for the  
119-52 issuance or renewal of a license, certificate, or permit filed  
119-53 under Chapter 601, 602, 603, or 604, Occupations Code, on or after  
119-54 January 1, 2016. An application filed before that date is governed  
119-55 by the law in effect at the time the application was filed, and the  
119-56 former law is continued in effect for that purpose.

119-57 SECTION 2.199. (a) A rule or fee of the Department of State  
119-58 Health Services that relates to a program transferred under this  
119-59 article and that is in effect on the effective date of this Act  
119-60 remains in effect until changed by the Texas Medical Board, the  
119-61 Texas Board of Medical Radiologic Technology, or the Texas Board of  
119-62 Respiratory Care, as appropriate.

119-63 (b) A license, certificate, or permit issued by the  
119-64 Department of State Health Services for a program transferred under  
119-65 this article is continued in effect as a license, certificate, or  
119-66 permit of the Texas Medical Board, the Texas Board of Medical  
119-67 Radiologic Technology, or the Texas Board of Respiratory Care, as  
119-68 appropriate, after the effective date of this Act.

119-69 (c) A complaint, investigation, contested case, or other

120-1 proceeding before the Department of State Health Services relating  
 120-2 to a program transferred under this article that is pending on the  
 120-3 effective date of this Act is transferred without change in status  
 120-4 to the Texas Medical Board, the Texas Board of Medical Radiologic  
 120-5 Technology, or the Texas Board of Respiratory Care, as appropriate.

120-6 SECTION 2.200. (a) As soon as practicable after the  
 120-7 effective date of this Act, the Department of State Health Services  
 120-8 and the Texas Medical Board shall adopt a transition plan to provide  
 120-9 for the orderly transfer of powers, duties, functions, programs,  
 120-10 and activities under this article. The transition plan must  
 120-11 provide for the transfer to be completed as soon as practicable  
 120-12 after the effective date of this Act.

120-13 (b) The Department of State Health Services shall provide  
 120-14 the Texas Medical Board with access to any systems or information  
 120-15 necessary for the Texas Medical Board to accept a program  
 120-16 transferred under this article.

120-17 (c) On the effective date of this Act, the Texas Board of  
 120-18 Licensure for Professional Medical Physicists and the Texas State  
 120-19 Perfusionist Advisory Committee are abolished and the governor and  
 120-20 the president of the Texas Medical Board, as appropriate, shall, as  
 120-21 soon as practicable after the effective date of this Act, appoint  
 120-22 the members of the Texas Board of Medical Radiologic Technology,  
 120-23 the Medical Physicist Licensure Advisory Committee, the  
 120-24 Perfusionist Licensure Advisory Committee, and the Texas Board of  
 120-25 Respiratory Care.

120-26 (d) On the effective date of this Act, all full-time  
 120-27 equivalent employee positions at the Department of State Health  
 120-28 Services that primarily concern the administration or enforcement  
 120-29 of Chapter 601, 602, 603, or 604, Occupations Code, become  
 120-30 positions at the Texas Medical Board. The Texas Medical Board shall  
 120-31 post the positions for hiring and, when filling the positions,  
 120-32 shall give consideration to, but is not required to hire, an  
 120-33 applicant who, immediately before the effective date of this Act,  
 120-34 was an employee at the Department of State Health Services  
 120-35 primarily involved in administering or enforcing the applicable  
 120-36 law.

### 120-37 ARTICLE 3. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

120-38 SECTION 3.001. Section 2165.303(b), Government Code, is  
 120-39 amended to read as follows:

120-40 (b) The commission shall report the findings and test  
 120-41 results obtained under a contract for air monitoring under this  
 120-42 section to the office [~~and the department~~] in a form and manner  
 120-43 prescribed by the office [~~and the department~~] for that purpose.

120-44 SECTION 3.002. Section 2165.305(c), Government Code, is  
 120-45 amended to read as follows:

120-46 (c) In developing a seminar required by this section, the  
 120-47 office shall receive assistance from:

- 120-48 (1) the commission; and  
 120-49 (2) [~~the department, and~~  
 120-50 ~~(3)~~] an entity that specializes in research and  
 120-51 technical assistance related to indoor air quality but does not  
 120-52 receive appropriations from the state.

120-53 SECTION 3.003. The heading to Subtitle G, Title 2, Health  
 120-54 and Safety Code, is amended to read as follows:

#### 120-55 SUBTITLE G. LICENSES AND OTHER REGULATION

120-56 SECTION 3.004. The heading to Subchapter C, Chapter 144,  
 120-57 Health and Safety Code, is amended to read as follows:

#### 120-58 SUBCHAPTER C. OPERATING PROCEDURES [~~FOR ALL LICENSE HOLDERS~~]

120-59 SECTION 3.005. Section 144.021, Health and Safety Code, as  
 120-60 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 120-61 2015, is amended to read as follows:

120-62 Sec. 144.021. GENERAL REQUIREMENTS FOR RENDERING  
 120-63 OPERATIONS [~~OPERATING LICENSES~~]. [~~(a)~~] Each rendering  
 120-64 establishment, related station, transfer station, dead animal  
 120-65 hauler, or renderable raw material hauler [~~applicant for or holder~~  
 120-66 ~~of an operating license~~] shall adopt operating procedures that:

- 120-67 (1) provide for the sanitary performance of rendering  
 120-68 operations and processes;  
 120-69 (2) prevent the spread of infectious or noxious

121-1 materials; and

121-2 (3) ensure that finished products are free from  
121-3 disease-producing organisms.

121-4 ~~[(b) As a condition of licensure, the department, in  
121-5 accordance with department rules, may prescribe other reasonable  
121-6 and appropriate construction, operational, maintenance, and  
121-7 inspection requirements to ensure compliance with this chapter and  
121-8 other applicable rules.]~~

121-9 SECTION 3.006. Section 144.022, Health and Safety Code, as  
121-10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
121-11 2015, is amended to read as follows:

121-12 Sec. 144.022. RECORDS. (a) Each ~~[licensed]~~ rendering  
121-13 establishment, related station, or dead animal hauler shall have a  
121-14 dead animal log that meets the requirements prescribed by  
121-15 department rule. The name of the ~~[licensed]~~ rendering  
121-16 establishment, related station, or dead animal hauler must be on  
121-17 the front of the log.

121-18 (b) A rendering establishment, related station, or dead  
121-19 animal hauler that ~~[When a license holder]~~ receives a dead animal ~~[,~~  
121-20 ~~the license holder]~~ shall enter the following information in the  
121-21 log:

121-22 (1) the date and time of the pickup of the dead animal;  
121-23 (2) the name of the driver of the collection vehicle;  
121-24 (3) a description of the dead animal;  
121-25 (4) the location of the dead animal, including the  
121-26 county; and

121-27 (5) the owner of the dead animal, if known.

121-28 (c) The rendering establishment, related station, or dead  
121-29 animal hauler ~~[license holder]~~ shall also keep a record in the log,  
121-30 or in an appendix to the log, of the general route followed in  
121-31 making the collection.

121-32 (d) The log is subject to inspection at all reasonable times  
121-33 by the department or a person with written authorization from the  
121-34 department. ~~[Repeated or wilful failure or refusal to produce the  
121-35 log for inspection or to permit inspection by persons properly  
121-36 authorized to inspect the log constitutes grounds for license  
121-37 revocation.]~~

121-38 (e) This section does not apply to a ~~[licensed]~~ renderable  
121-39 raw material hauler.

121-40 SECTION 3.007. The heading to Section 144.023, Health and  
121-41 Safety Code, is amended to read as follows:

121-42 Sec. 144.023. VEHICLES ~~[, PERMIT REQUIRED]~~.

121-43 SECTION 3.008. Section 144.023(c), Health and Safety Code,  
121-44 is amended to read as follows:

121-45 (c) A truck bed used to transport dead animals or renderable  
121-46 raw materials shall be thoroughly washed and sanitized before use  
121-47 for the transport of finished rendered products. A truck bed used  
121-48 to transport dead animals or renderable raw materials to a  
121-49 rendering establishment, or to transfer finished rendered products  
121-50 from an establishment, shall, before being used to transport any  
121-51 product intended for human consumption, be thoroughly sanitized  
121-52 with a bactericidal agent that is ~~[determined by the department to  
121-53 be]~~ safe for use in a rendering establishment. A truck bed may not  
121-54 be used to transport dead animals or renderable raw materials at the  
121-55 same time the truck bed or any part of the truck bed is used to  
121-56 transport any product intended for human consumption,  
121-57 notwithstanding the manner in which part of the truck bed is sealed  
121-58 or separated from the remainder of the bed.

121-59 SECTION 3.009. Section 144.027(c), Health and Safety Code,  
121-60 is amended to read as follows:

121-61 (c) A drinking water supply ~~[approved by the department]~~  
121-62 shall be provided at convenient locations in the establishment for  
121-63 the use of employees.

121-64 SECTION 3.010. Section 144.078(a), Health and Safety Code,  
121-65 is amended to read as follows:

121-66 (a) The ~~[On request of the department, the]~~ attorney general  
121-67 may bring an action in any district court of this state that has  
121-68 jurisdiction and venue for an injunction to compel compliance with  
121-69 this chapter or to restrain any actual or threatened violation of

122-1 this chapter.

122-2 SECTION 3.011. Section 144.079(c), Health and Safety Code,  
122-3 is amended to read as follows:

122-4 (c) A renderer, hauler, or any other person may not~~+~~  
122-5 ~~[(1) take possession of recyclable cooking oil from an~~  
122-6 ~~unlicensed hauler or an employee or contractor of an unlicensed~~  
122-7 ~~hauler, or~~  
122-8 ~~[(2)]~~ knowingly take possession of stolen recyclable  
122-9 cooking oil.

122-10 SECTION 3.012. Sections 145.006(a) and (b), Health and  
122-11 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,  
122-12 Regular Session, 2015, are amended to read as follows:

122-13 (a) A tanning facility shall post a warning sign in a  
122-14 conspicuous location where it is readily visible by persons  
122-15 entering the establishment. ~~[The executive commissioner by rule~~  
122-16 ~~shall specify the size, design, and graphic design of the sign.]~~  
122-17 The sign must have dimensions of at least 11 inches by 17 inches and  
122-18 must contain the following wording:

122-19 Repeated exposure to ultraviolet radiation may cause chronic  
122-20 sun damage characterized by wrinkling, dryness, fragility,  
122-21 bruising of the skin, and skin cancer.

122-22 DANGER: ULTRAVIOLET RADIATION

122-23 Failure to use protective eyewear may result in severe burns  
122-24 or permanent injury to the eyes.

122-25 Medications or cosmetics may increase your sensitivity to  
122-26 ultraviolet radiation. Consult a physician before using a sunlamp  
122-27 if you are using medications, have a history of skin problems, or  
122-28 believe you are especially sensitive to sunlight. Pregnant women  
122-29 or women taking oral contraceptives who use this product may  
122-30 develop discolored skin.

122-31 A tanning facility operator who violates a law relating to  
122-32 the operation of a tanning facility is subject to a civil or  
122-33 criminal penalty. If you suspect a violation, please contact your  
122-34 local law enforcement authority or local health authority. [A  
122-35 customer may call the Department of State Health Services at  
122-36 (insert toll-free telephone number) to report an alleged injury  
122-37 regarding this tanning facility.]

122-38 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN  
122-39 ULTRAVIOLET LAMP OR SUNLAMP.

122-40 (b) A tanning facility operator shall also post a warning  
122-41 sign at each tanning device in a conspicuous location that is  
122-42 readily visible to a person about to use the device. ~~[The executive~~  
122-43 ~~commissioner by rule shall specify the size, design, and graphic~~  
122-44 ~~design of the sign.]~~ The sign must have dimensions of at least 11  
122-45 inches by 17 inches and must contain the following wording:

122-46 DANGER: ULTRAVIOLET RADIATION

122-47 1. Follow the manufacturer's instructions for use of this  
122-48 device.

122-49 2. Avoid too frequent or lengthy exposure. As with natural  
122-50 sunlight, exposure can cause serious eye and skin injuries and  
122-51 allergic reactions. Repeated exposure may cause skin cancer.

122-52 3. Wear protective eyewear. Failure to use protective  
122-53 eyewear may result in severe burns or permanent damage to the eyes.

122-54 4. Do not sunbathe before or after exposure to ultraviolet  
122-55 radiation from sunlamps.

122-56 5. Medications or cosmetics may increase your sensitivity  
122-57 to ultraviolet radiation. Consult a physician before using a  
122-58 sunlamp if you are using medication, have a history of skin  
122-59 problems, or believe you are especially sensitive to sunlight.  
122-60 Pregnant women or women using oral contraceptives who use this  
122-61 product may develop discolored skin.

122-62 A tanning facility operator who violates a law relating to  
122-63 the operation of a tanning facility is subject to a civil or  
122-64 criminal penalty. If you suspect a violation, please contact your  
122-65 local law enforcement authority or local health authority. [A  
122-66 customer may call the Department of State Health Services at  
122-67 (insert toll-free telephone number) to report an alleged injury  
122-68 regarding this tanning device.]

122-69 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF

## THIS DEVICE.

123-1 SECTION 3.013. Sections 145.008(i) and (j), Health and  
 123-2 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,  
 123-3 Regular Session, 2015, are amended to read as follows:

123-4 (i) A record of each customer using a tanning device shall  
 123-5 be maintained at the tanning facility at least until the third  
 123-6 anniversary of the date of the customer's last use of a tanning  
 123-7 device. ~~[The executive commissioner by rule shall prescribe the~~  
 123-8 ~~form and content of the records.]~~ The record shall include:

123-9 (1) the date and time of the customer's use of a  
 123-10 tanning device;

123-11 (2) the length of time the tanning device was used;

123-12 (3) any injury or illness resulting from the use of a  
 123-13 tanning device;

123-14 (4) any written informed consent statement required to  
 123-15 be signed under Subsection (e);

123-16 (5) the customer's skin type, as determined by the  
 123-17 customer by using the Fitzpatrick scale for classifying a skin  
 123-18 type;

123-19 (6) whether the customer has a family history of skin  
 123-20 cancer; and

123-21 (7) whether the customer has a past medical history of  
 123-22 skin cancer.

123-23 (j) An operator shall keep an incident log at each tanning  
 123-24 facility. The log shall be maintained at the tanning facility at  
 123-25 least until the third anniversary of the date of an incident. ~~[The~~  
 123-26 ~~executive commissioner by rule shall prescribe the form and content~~  
 123-27 ~~of the log.]~~ The log shall include each:

123-28 (1) alleged injury;

123-29 (2) use of a tanning device by a customer not wearing  
 123-30 protective eyewear;

123-31 (3) mechanical problem with a tanning device; and

123-32 (4) customer complaint.

123-33 SECTION 3.014. Section 145.0096, Health and Safety Code, is  
 123-34 amended by amending Subsections (a) and (b) and adding Subsection  
 123-35 (a-1) to read as follows:

123-36 (a) This section applies only to a business that:

123-37 (1) is operated under a license or permit as a sexually  
 123-38 oriented business issued in accordance with Section 243.007, Local  
 123-39 Government Code; or

123-40 (2) offers, as its primary business, a service or the  
 123-41 sale, rental, or exhibition of a device or other item that is  
 123-42 intended to provide sexual stimulation or sexual gratification to a  
 123-43 customer.

123-44 (a-1) A business to which this section applies [described by  
 123-45 Section 145.0095(a)(1) or (2)] may not use the word "tan" or  
 123-46 "tanning" in a sign or any other form of advertising.

123-47 (b) A person commits an offense if the person violates  
 123-48 Subsection (a-1) ~~[(a)]~~. Except as provided by Subsection (c), an  
 123-49 offense under this subsection is a Class C misdemeanor.

123-50 SECTION 3.015. The heading to Section 145.011, Health and  
 123-51 Safety Code, is amended to read as follows:

123-52 Sec. 145.011. ACCESS TO RECORDS ~~[RULES, INSPECTION]~~.

123-53 SECTION 3.016. Section 145.011(c), Health and Safety Code,  
 123-54 is amended to read as follows:

123-55 (c) A person who is required to maintain records under this  
 123-56 chapter or a person in charge of the custody of those records shall,  
 123-57 at the request of a [an authorized agent or] health authority,  
 123-58 permit the ~~[authorized agent or]~~ health authority access to copy or  
 123-59 verify the records at reasonable times.

123-60 SECTION 3.017. Sections 145.0121(a) and (f), Health and  
 123-61 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,  
 123-62 Regular Session, 2015, are amended to read as follows:

123-63 (a) If it appears that a person has violated or is violating  
 123-64 this chapter ~~[or an order issued or a rule adopted under this~~  
 123-65 ~~chapter], [the department may request]~~ the attorney general, or the  
 123-66 district, ~~[or]~~ county, ~~[attorney]~~ or ~~[the]~~ municipal attorney ~~[of a~~  
 123-67 ~~municipality]~~ in the jurisdiction where the violation is alleged to  
 123-68 have occurred or may occur, may ~~[to]~~ institute a civil suit for:

- 124-1 (1) an order enjoining the violation;
- 124-2 (2) a permanent or temporary injunction, a temporary
- 124-3 restraining order, or other appropriate remedy [~~if the department~~
- 124-4 ~~shows that the person has engaged in or is engaging in a violation];~~
- 124-5 (3) the assessment and recovery of a civil penalty; or
- 124-6 (4) both injunctive relief and a civil penalty.

124-7 (f) The [~~department or the~~] attorney general may [~~each~~]  
 124-8 recover reasonable expenses incurred in obtaining injunctive  
 124-9 relief or a civil penalty under this section, including  
 124-10 investigation and court costs, reasonable attorney's fees, witness  
 124-11 fees, and other expenses. [~~The expenses recovered by the~~  
 124-12 ~~department under this section shall be used for the administration~~  
 124-13 ~~and enforcement of this chapter.] The expenses recovered by the  
 124-14 attorney general shall be used by the attorney general.~~

124-15 SECTION 3.018. Section 145.013(a), Health and Safety Code,  
 124-16 is amended to read as follows:

124-17 (a) A person, other than a customer, commits an offense if  
 124-18 the person violates this chapter [~~or a rule adopted under this~~  
 124-19 ~~chapter].~~

124-20 SECTION 3.019. Section 145.016(b), Health and Safety Code,  
 124-21 is amended to read as follows:

124-22 (b) An operator or other person may disclose a customer  
 124-23 record:

- 124-24 (1) if the customer, or a person authorized to act on
- 124-25 behalf of the customer, requests the record;
- 124-26 (2) if a [~~the commissioner or an authorized agent or~~]
- 124-27 health authority requests the record under Section 145.011;
- 124-28 (3) if the customer consents in writing to the
- 124-29 disclosure to another person;
- 124-30 (4) in a criminal proceeding in which the customer is a
- 124-31 victim, witness, or defendant;
- 124-32 (5) if the record is requested in a criminal or civil
- 124-33 proceeding by court order or subpoena; or
- 124-34 (6) as otherwise required by law.

124-35 SECTION 3.020. Section 1001.071(b), Health and Safety Code,  
 124-36 as redesignated by S.B. 219, Acts of the 84th Legislature, Regular  
 124-37 Session, 2015, is amended to read as follows:

124-38 (b) The department is responsible for administering human  
 124-39 services programs regarding the public health, including:

- 124-40 (1) implementing the state's public health care
- 124-41 delivery programs under the authority of the department;
- 124-42 (2) administering state health facilities, hospitals,
- 124-43 and health care systems;
- 124-44 (3) developing and providing health care services, as
- 124-45 directed by law;
- 124-46 (4) providing for the prevention and control of
- 124-47 communicable diseases;
- 124-48 (5) providing public education on health-related
- 124-49 matters, as directed by law;
- 124-50 (6) compiling and reporting health-related
- 124-51 information, as directed by law;
- 124-52 (7) acting as the lead agency for implementation of
- 124-53 state policies regarding the human immunodeficiency virus and
- 124-54 acquired immunodeficiency syndrome and administering programs
- 124-55 related to the human immunodeficiency virus and acquired
- 124-56 immunodeficiency syndrome;
- 124-57 (8) investigating the causes of injuries and methods
- 124-58 of prevention;
- 124-59 (9) administering a grant program to provide
- 124-60 appropriated money to counties, municipalities, public health
- 124-61 districts, and other political subdivisions for their use to
- 124-62 provide or pay for essential public health services;
- 124-63 (10) administering the registration of vital
- 124-64 statistics;
- 124-65 (11) licensing, inspecting, and enforcing regulations
- 124-66 regarding health facilities, other than long-term care facilities
- 124-67 regulated by the Department of Aging and Disability Services;
- 124-68 (12) implementing established standards and
- 124-69 procedures for the management and control of sanitation and for

125-1 health protection measures;  
 125-2 (13) enforcing regulations regarding radioactive  
 125-3 materials;  
 125-4 (14) enforcing regulations regarding food, [~~bottled~~  
 125-5 ~~and vended drinking water,~~] drugs, cosmetics, and health devices;  
 125-6 (15) enforcing regulations regarding food service  
 125-7 establishments, retail food stores, mobile food units, and roadside  
 125-8 food vendors;  
 125-9 (16) enforcing regulations controlling hazardous  
 125-10 substances in households and workplaces; and  
 125-11 (17) implementing a mental health program for  
 125-12 veterans.

125-13 SECTION 3.021. Section 32.074(a), Human Resources Code, is  
 125-14 amended to read as follows:

125-15 (a) In this section, "personal emergency response system"  
 125-16 has the meaning assigned by Section 1702.331, Occupations [~~781.001,~~  
 125-17 ~~Health and Safety~~] Code.

125-18 SECTION 3.022. Section 843.002(24), Insurance Code, is  
 125-19 amended to read as follows:

125-20 (24) "Provider" means:

125-21 (A) a person, other than a physician, who is  
 125-22 licensed or otherwise authorized to provide a health care service  
 125-23 in this state, including:

125-24 (i) a chiropractor, registered nurse,  
 125-25 pharmacist, optometrist, [~~registered optician,~~] or acupuncturist;  
 125-26 or

125-27 (ii) a pharmacy, hospital, or other  
 125-28 institution or organization;

125-29 (B) a person who is wholly owned or controlled by  
 125-30 a provider or by a group of providers who are licensed or otherwise  
 125-31 authorized to provide the same health care service; or

125-32 (C) a person who is wholly owned or controlled by  
 125-33 one or more hospitals and physicians, including a  
 125-34 physician-hospital organization.

125-35 SECTION 3.023. Sections 351.005(a) and (d), Occupations  
 125-36 Code, are amended to read as follows:

125-37 (a) This chapter does not:

125-38 (1) apply to an officer or agent of the United States  
 125-39 or this state in performing official duties;

125-40 (2) prevent or interfere with the right of a physician  
 125-41 licensed by the Texas [~~State Board of~~] Medical Board [~~Examiners~~]  
 125-42 to:

125-43 (A) treat or prescribe for a patient; or

125-44 (B) direct or instruct a person under the  
 125-45 physician's control, supervision, or direction to aid or attend to  
 125-46 the needs of a patient according to the physician's specific  
 125-47 direction, instruction, or prescription;

125-48 (3) prevent a person from selling ready-to-wear  
 125-49 eyeglasses as merchandise at retail;

125-50 (4) prevent an unlicensed person from making simple  
 125-51 repairs to eyeglasses;

125-52 (5) [~~prevent or interfere with the right of a~~  
 125-53 ~~dispensing optician registered under Chapter 352 to engage in~~  
 125-54 ~~spectacle or contact lens dispensing under that chapter,~~

125-55 [~~(6)~~] prevent an ophthalmic dispenser who does not  
 125-56 practice optometry or therapeutic optometry from measuring  
 125-57 interpupillary distances or making facial measurements to dispense  
 125-58 or adapt an ophthalmic prescription, lens, product, or accessory in  
 125-59 accordance with the specific directions of a written prescription  
 125-60 signed by an optometrist, therapeutic optometrist, or licensed  
 125-61 physician;

125-62 (6) [~~(7)~~] prevent the administrator or executor of the  
 125-63 estate of a deceased optometrist or therapeutic optometrist from  
 125-64 employing an optometrist or therapeutic optometrist to continue the  
 125-65 practice of the deceased during estate administration; or

125-66 (7) [~~(8)~~] prevent an optometrist or therapeutic  
 125-67 optometrist from working for the administrator or executor of the  
 125-68 estate of a deceased optometrist or therapeutic optometrist to  
 125-69 continue the practice of the deceased during estate administration.

126-1 (d) Continuation of the practice of a deceased optometrist  
 126-2 or therapeutic optometrist by an estate under Subsections (a)(6)  
 126-3 and (7) [~~(a)(7) and (8)~~] must:

126-4 (1) be authorized by the county judge; and  
 126-5 (2) terminate before the first anniversary of the date  
 126-6 of death of the optometrist or therapeutic optometrist.

126-7 SECTION 3.024. Section 353.004, Occupations Code, as  
 126-8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 126-9 2015, is amended to read as follows:

126-10 Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE.  
 126-11 [~~(a)~~] The [~~department and the~~] Texas Optometry Board shall prepare  
 126-12 and provide to the public and appropriate state agencies  
 126-13 information regarding the release and verification of contact lens  
 126-14 prescriptions.

126-15 [~~(b) The executive commissioner may adopt rules necessary~~  
 126-16 ~~to implement this section.~~]

126-17 SECTION 3.025. Section 353.1015(b), Occupations Code, is  
 126-18 amended to read as follows:

126-19 (b) A prescription is considered verified under this  
 126-20 section if:

126-21 (1) the prescribing physician, optometrist, or  
 126-22 therapeutic optometrist by a direct communication confirms that the  
 126-23 prescription is accurate;

126-24 (2) the prescribing physician, optometrist, or  
 126-25 therapeutic optometrist informs the person dispensing the contact  
 126-26 lenses that the prescription is inaccurate and provides the correct  
 126-27 prescription information; or

126-28 (3) the prescribing physician, optometrist, or  
 126-29 therapeutic optometrist fails to communicate with the person  
 126-30 dispensing the contact lenses not later than the eighth business  
 126-31 hour after the prescribing physician, optometrist, or therapeutic  
 126-32 optometrist receives from the person dispensing the contact lenses  
 126-33 the request for verification [~~or within another similar period~~  
 126-34 ~~specified by rule~~].

126-35 SECTION 3.026. Section 353.103(a), Occupations Code, is  
 126-36 amended to read as follows:

126-37 (a) If a patient presents a contact lens prescription to be  
 126-38 filled or asks a person who dispenses contact lenses [~~permit~~  
 126-39 ~~holder~~] to verify a contact lens prescription under Section  
 126-40 353.1015, but requests that fewer than the total number of lenses  
 126-41 authorized by the prescription be dispensed, the person dispensing  
 126-42 the lenses shall note on the prescription or verification:

126-43 (1) the number of lenses dispensed;  
 126-44 (2) the number of lenses that remain eligible to be  
 126-45 dispensed under the prescription; and

126-46 (3) the name, address, and telephone number [~~, and~~  
 126-47 ~~license or permit number~~] of the person dispensing the lenses.

126-48 SECTION 3.027. Section 353.104(a), Occupations Code, is  
 126-49 amended to read as follows:

126-50 (a) If a patient needs an emergency refill of the patient's  
 126-51 contact lens prescription, a physician, optometrist, or  
 126-52 therapeutic optometrist may telephone or fax the prescription to a  
 126-53 person who dispenses [~~authorized to dispense~~] contact lenses [~~under~~  
 126-54 ~~Section 353.051~~] or may verify a prescription under Section  
 126-55 353.1015.

126-56 SECTION 3.028. Section 353.151, Occupations Code, is  
 126-57 amended to read as follows:

126-58 Sec. 353.151. DIRECTIONS FOR INDEPENDENT DISPENSER  
 126-59 [~~OPTICIAN~~]; DELEGATION. (a) If a physician's directions,  
 126-60 instructions, or orders are to be performed or a physician's  
 126-61 prescription is to be filled by a person [~~an optician~~] who is  
 126-62 independent of the physician's office, the directions,  
 126-63 instructions, orders, or prescription must be:

126-64 (1) in writing or verified under Section 353.1015;

126-65 (2) of a scope and content and communicated to the  
 126-66 person [~~optician~~] in a form and manner that, in the professional  
 126-67 judgment of the physician, best serves the health, safety, and  
 126-68 welfare of the physician's patient; and

126-69 (3) in a form and detail consistent with the person's

127-1 [~~optician's~~] skill and knowledge.

127-2 (b) A person who dispenses contact lenses [~~holds a contact~~  
127-3 ~~lens dispensing permit issued under Subchapter B~~] may measure the  
127-4 eye or cornea and may evaluate the physical fit of lenses for a  
127-5 particular patient of a physician if the physician has delegated in  
127-6 writing those responsibilities regarding that patient to the person  
127-7 in accordance with Subsection (a) and Section 351.005.

127-8 (c) If a physician notes on a spectacle prescription "fit  
127-9 for contacts" or similar language and has, as required by  
127-10 Subsections (a) and (b), specifically delegated to a specific  
127-11 person [~~optician~~] the authority to make the additional measurements  
127-12 and evaluations necessary for a fully written contact lens  
127-13 prescription, the person [~~optician~~] may dispense contact lenses to  
127-14 the patient even though the prescription is less than a fully  
127-15 written contact lens prescription.

127-16 SECTION 3.029. The following provisions of the Government  
127-17 Code, including provisions amended by S.B. 219, Acts of the 84th  
127-18 Legislature, Regular Session, 2015, are repealed:

- 127-19 (1) Section 2165.301(2);
- 127-20 (2) Section 2165.302; and
- 127-21 (3) Section 2165.304.

127-22 SECTION 3.030. The following provisions of the Health and  
127-23 Safety Code, including provisions amended by S.B. 219, Acts of the  
127-24 84th Legislature, Regular Session, 2015, are repealed:

- 127-25 (1) Section 144.001;
- 127-26 (2) Subchapter B, Chapter 144;
- 127-27 (3) Sections 144.023(d) and (e);
- 127-28 (4) Section 144.031;
- 127-29 (5) Subchapter D, Chapter 144;
- 127-30 (6) Subchapter E, Chapter 144;
- 127-31 (7) Subchapter F, Chapter 144;
- 127-32 (8) Section 144.071;
- 127-33 (9) Section 144.072;
- 127-34 (10) Section 144.073;
- 127-35 (11) Section 144.074;
- 127-36 (12) Section 144.075;
- 127-37 (13) Section 144.076;
- 127-38 (14) Section 144.077;
- 127-39 (15) Section 144.078(c);
- 127-40 (16) Section 144.080;
- 127-41 (17) Section 144.081;
- 127-42 (18) Section 144.082;
- 127-43 (19) Section 144.083;
- 127-44 (20) Section 144.084;
- 127-45 (21) Section 144.085;
- 127-46 (22) Section 145.001;
- 127-47 (23) Section 145.002(1);
- 127-48 (24) Section 145.004(b);
- 127-49 (25) Section 145.006(c);
- 127-50 (26) Section 145.008(k);
- 127-51 (27) Section 145.009;
- 127-52 (28) Section 145.0095;
- 127-53 (29) Section 145.010;
- 127-54 (30) Sections 145.011(a) and (b);
- 127-55 (31) Section 145.012;
- 127-56 (32) Section 145.0122;
- 127-57 (33) Section 145.015;
- 127-58 (34) Chapter 345;
- 127-59 (35) Chapter 385;
- 127-60 (36) Chapter 441; and
- 127-61 (37) Chapter 781.

127-62 SECTION 3.031. The following provisions of the Occupations  
127-63 Code, including provisions amended by S.B. 219, Acts of the 84th  
127-64 Legislature, Regular Session, 2015, are repealed:

- 127-65 (1) Section 351.005(c);
- 127-66 (2) Chapter 352;
- 127-67 (3) Sections 353.002(2) and (4);
- 127-68 (4) Section 353.005;
- 127-69 (5) Subchapter B, Chapter 353;

- 128-1 (6) Section 353.202;
- 128-2 (7) Section 353.2025;
- 128-3 (8) Section 353.203;
- 128-4 (9) Section 353.204(b); and
- 128-5 (10) Section 353.205.

128-6 SECTION 3.032. On the effective date of this Act, a license,  
128-7 permit, certification of registration, or other authorization  
128-8 issued under a law that is repealed by this article expires.

128-9 SECTION 3.033. The changes in law made by this article do  
128-10 not affect the validity of a disciplinary action or other  
128-11 proceeding that was initiated before the effective date of this Act  
128-12 and that is pending before a court or other governmental entity on  
128-13 the effective date of this Act.

128-14 SECTION 3.034. (a) An offense under or other violation of  
128-15 a law that is repealed by this article is governed by the law in  
128-16 effect when the offense or violation was committed, and the former  
128-17 law is continued in effect for that purpose.

128-18 (b) For purposes of this section, an offense or violation  
128-19 was committed before the effective date of this Act if any element  
128-20 of the offense or violation occurred before that date.

128-21 SECTION 3.035. The repeal of a law by this article does not  
128-22 entitle a person to a refund of an application, licensing, or other  
128-23 fee paid by the person before the effective date of this Act.

128-24 ARTICLE 4. EFFECTIVE DATE

128-25 SECTION 4.001. (a) Except as provided by Subsection (b) of  
128-26 this section, this Act takes effect September 1, 2015.

128-27 (b) Part 2 of Article 1 of this Act takes effect September 1,  
128-28 2017.

128-29 \* \* \* \* \*